KEMENTERIAN PERDAGANGAN
REPUBLIK INDONESIA
MINISTRY OF TRADE

Directorate General of Foreign Trade

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Anti-Dumping Commission 12 SEP 2017

Ref.No.520/DAGLU.6.2/SD/08/2017

Jakarta, 8 August 2017

The Director
Investigations 2
GPO Box 2013
Canberra ACT 2601 - Australia

Subject : Submission on Initiation of an Investigation into Alleged Dumping of Steel Reinforcing Bar Exported to Australia inter alia from the Republic of Indonesia.

Dear Sir/Madam,

Herewith, we would like to submit The Government of Indonesia (GOI) submission on the above mentioned subject. Since the submission containing non-confidential information, the authority may make the document available to public. In view of the foregoing, we respectfully request the Authority to consider the GOI'S submission and make appropriate determination.

The GOI avail itself of this opportunity to renew Australian Anti-Dumping Commission the assurance of its highest consideration.

Thank you for your kind cooperation.

Yours Sincerely,

Pradnyawati
Director of Trade Defense

Cc:
1. DG of Foreign Trade, Ministry of Trade;
2. H.E. Ambassador of Indonesia for Australia, in Canberra.

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Anti-Dumping Commission 12 SEP 2017

Our Ref : 519 /DAGLU.6.2/SD/08/2017

Jakarta, 8 of August 2017

The Director of Investigation 2
Australian Anti-dumping Commission
Department of Industry, Innovation and Science
Canberra ACT 2601, Australia

Re : Initiation of an Investigation into Alleged Dumping of Steel Reinforcing Bar Exported to Australia inter alia from the Republic of Indonesia

Dear Director,

The Government of Indonesia ("GOI") would like to express its deep concern to Australian Anti-Dumping Commission ("the Authority") with regard to initiation of Anti-dumping investigation against *Steel Reinforcing Bar* ("Product Under Consideration/ PUC") exported to Australia from, among others, the Republic of Indonesia on June 27th 2017, as follows:

1. **Negligible Imports of PUC from Indonesia.**

   We take note that the Authority has determined that the volume of dumped imports from each alleged country is not negligible. However, the Authority did not properly disclose imports volume of each alleged countries which the Authority used to base its determination. Accordingly, we would like to request the Authority to disclose such import data, including H.S. code which correspond with the PUC, and make available for the interested parties to comment.

   Despite being determined by the Authority, we found that according to international statistic which refer to Australian Bureau Statistics (Trademap, 2017), import volume of PUC from Indonesia into Australia were negligible. In this regard, we would like to refer to Article 5.8 of the Anti-dumping Agreement which states:
   "There shall be immediate termination in cases where the authorities determine that ... the volume of dumped imports, actual or potential, or the injury, is negligible"

   In determining the negligibility of import volume, Article 5.8 of the Anti-dumping Agreement further states: *"...if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member..."*. However, *" ... unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member."* Thus, there are 2 tests that should be fulfilled before determining such imports are negligible.

   In terms of the time-period to be considered in making a determination of negligible import volumes for purposes of Article 5.8 of the Anti-dumping Agreement, the Committee on Anti-dumping on 27 November 2002, in which the investigating Authority should use, among others: *" ... (b) the most recent 12 consecutive months prior to initiation for which data are available..."*.[1] Accordingly, after taking into account the availability of data, we are of the view that in this particular investigation the 2016 period is the most recent period of data, and also the period provides a better availability of data.

[1] The committee also recommend other alternatives time-period for reference, such as: "(a) the period of data collection for the dumping investigation; or...(c) the most recent 12 consecutive months prior to the date on which the application was filed, for which data are available, provided that the lapse of time between the filing of the application and the initiation of the investigation is no longer than 90 days.

Firstly, as for "3 per cent test", according Trademap, 2017, we found that Australia has imported PUC products from Indonesia in 2016 as classified in the following tariff classifications:

Table 1. Australian Volume Import Share from Indonesia

HS	WORLD (2016)	INDONESIA (2016)	SHARE
	VOLUME (TONNES)	VOLUME (TONNES)	
A	B	C	D
7213100042	133,644	589	0.4
7214200047	149,441	818	0.5
7227901069	953	-	0.0
7227909004	6	-	0.0
7227909002	5,872	-	0.0
7227909001	97	-	0.0
7227909042	-	-	0.0
7228301070	12,640	-	0.0
7228601072	570	-	0.0
7228309040	-	-	0.0
TOTAL	303,223	1,407	0.5

Source: Trademap, 2017 (ABS)

Based on Table 1, it is evident that actual imports of PUC, both for individual H.S. and collective calculation of all concerned H.S. codes as shown in column D from Indonesia in 2016 into Australia were found to account for less than 3 per cent of the PUC in Australia.

Secondly, for the sake of second test, we also submit that total volume import from other alleged exporting countries (Table 2) and found only imported PUC from Spain (Column G and H) and Thailand (Column I and J) were found to account more than 3 per cent, while imported PUC from Greece (Column C and D) and Taiwan (Column E and F) were only 2.4 percent and 0.1 per cent respectively. Therefore, total volume imports of PUC from countries (Indonesia, Greece, and Taiwan) which individually account for less than 3 per cent of the imports of the like product in the Australia are collectively account for **3 per cent** or less than 7 per cent of total volume imports of the PUC in Australia.

Table 2. Australian Volume Import Share from Other Alleged Countries

HS	WORLD (2016)	GREECE (2016)	SHARE	TAIWAN (2016)	SHARE	SPAIN (2016)	SHARE	THAILAND (2016)	SHARE
	VOLUME (TONNES)	VOLUME (TONNES)		VOLUME (TONNES)		VOLUME (TONNES)		VOLUME (TONNES)	
A	B	C	D	E	F	G	H	I	J
7213100042	133,644	-	0.0	-	0.0	19,064	14.3	-	0.0
7214200047	149,441	7,186	4.8	-	0.0	5,870	3.9	32,023	21.4
7227901069	953	-	0.0	-	0.0	-	0.0	-	0.0
7227909004	6	-	0.0	-	0.0	-	0.0	-	0.0
7227909002	5,872	-	0.0	-	0.0	2,690	45.8	-	0.0
7227909001	97	-	0.0	-	0.0	-	0.0	-	0.0
7227909042	-	-	0.0	-	0.0	-	0.0	-	0.0
7228301070	12,640	-	0.0	314	2.5	-	0.0	-	0.0
7228601072	570	-	0.0	41	0.0	-	0.0	-	0.0
7228309040	-	-	0.0	-	0.0	-	0.0	-	0.0
TOTAL	303,223	7,186	2.4	355	0.1	27,624	9.1	32,023	10.6

Source: Trademap, 2017 (ABS)

Therefore, in accordance with Article 5.8 of the Anti-dumping Agreement, we respectfully request current Anti-dumping investigation against PUC from Indonesia **shall be terminated in immediate effect** on the basis of negligible imports of PUC from Indonesia.

2. **The Petitioner is also importer of PUC from subject countries and benefitting from Imports.**

Having examined the application and consideration report of this investigation, we are mindful that the petitioner is an arms-length importer, purchasing certain quantity of goods (PUC) from an

exporter from one of the alleged countries.[2] Furthermore, in the 12-months to 31 March 2017, the petitioner also sold certain metric tons of PUC from import sources, aside from petitioner's production, into Australian market.[3] Thus, the petitioner is benefitting from imports of PUC by importing and selling the PUC in order to meet domestic demand.

In such circumstances, we are startled that the petitioner claimed injury due to the imports and request anti-dumping protection towards imports. We also cast doubt on petitioner's objectivity on the whole injury allegation, ultimately on claim that it lost market share due to competition from imports. In addition it alleged that the imports of PUC have directly gained market share from the applicant since April 2016 (in the case of rebar straights), and since July 2016 (in the case of rebar in coils), [4] while the petitioner has contributed to importation of PUC.

The same issue has been raised in the recent proceeding against Steel Wire Rod proposed by the petitioner whereas the petitioner was also acting as importer, and the Authority was also simply persuaded by the petitioner's claim and arguments without identifying and considering such key fact in its consideration report. The fact that the petitioner is the importer of the PUC constitutes a self-inflicted injury for itself. There would be a proper legal basis also to exclude the petitioner from the definition of domestic industry in Australia, leading to the termination of this investigation. In this regard, we request the Authority to take into account our argument and determine accordingly.

3. The Petitioner did not Present Sufficient Evidence of Injury to Warrant an Initiation

In spite of our first claim that import volume of PUC from Indonesia is negligible, we would like to address the injury assessment made by the Authority. The petitioner alleged that the injury commenced in April 2016 (for Rebar Straights) following the conclusion of Dumping Investigation No. 300, and in July 2016 (for Rebar in Coil) following the revocation of measures against Nervacero S.A. on 14 July 2016. However, we are of the view that the domestic industry was far from being materially injured, and the application submitted by the petitioner did not contain sufficient evidence of injury to warrant an initiation.

Despite the Australian industry's market share did not show a corresponding rise with increasing market (Figure 2), the Australian industry was still in the very dominant position, and in terms of sales, the Australian industry was not deterred with the increasing imports of PUC from alleged-countries, as in 2016 - 2017 period the sales of Australian industry was increased tremendously compared to previous period (Figure 1).[5]

Figure 1 – Australian Market Size

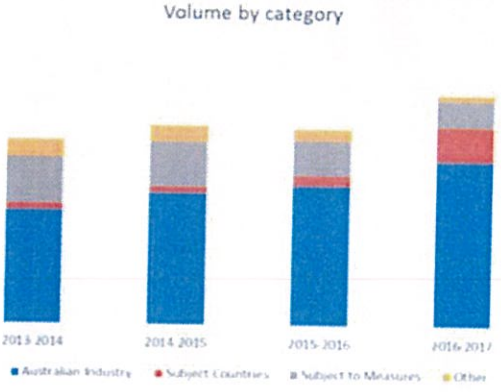
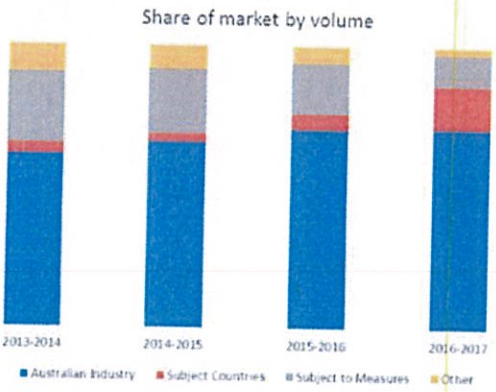


Figure 2 – Australian Market Share



[2] Page 9 of application for the publication of dumping duty notice. Petitioner describe the itself as *"...an arms-length importer, a quantity of the goods from an exporter from one of nominated countries..."*.

[3] Page 19 of application for the publication of dumping duty notice.

[4] Page 57 of application for the publication of dumping duty notice.

[5] Page 11 – 12 of Consideration Report No. 418, Application for a dumping duty notice.

For the purpose of our argument, the Authority should take into account the Australian New Ministerial Direction on Material Injury dated on 22 June 2011 which direct the Authority to consider loss of market share in a growing market without a decline in profits as material injury. The above-mentioned figures demonstrate the Australian industry did not loss a single market share, and no sales have been displaced by the import products. On the other hand, the increased of alleged-countries market share does not necessarily mean the loss of market share of Australian industry.

Some of indicators would also show positive growth, for instance Production quantity, revenue, capacity utilization, productivity, wages, and funding. Other indicators, such as profit variations and profitability showed loss which commenced at early of 2017, and not in April or July 2016 as argued by the petitioner. Meanwhile in the same period cost to make and sale of Australian industry has risen strikingly up to the point where it surpassed sales price of PUC and the Australian industry seemed to reluctant to increase its price, although imports price of PUC were being stagnant. Therefore, beside all of the claims and evidences submitted by the petitioner were insufficient to warrant an initiation, the petitioner did not submit sufficient evidence of nexus between alleged dumped import of PUC and loss of the Australian industry.

Indonesia avails itself of this opportunity to seek the Australian Anti-Dumping Commission' assurance that the Authority will conduct the investigation in a fair, transparent and objective manner leading to the termination of the investigation upon Indonesia producers without imposition of any measure.

Thank you for your kind attention and cooperation.

Yours Sincerely,

Pradnyawati
Director of Trade Defense
cc:

1. Director General of Foreign Trade;
2. Ambassador of the Republic of Indonesia in Canberra, Australia;
3. Indonesian Trade Attache in Canberra, Australia;
4. Economic Counsellor of Australian Embassy in Jakarta.