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Mr Geoffrey Gleeson
Director, Operations 3
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear Mr Gleeson

Public File

ATM Correspondence 2011/01 - HSS exported from China, Korea, Malaysia, Taiwan and Thailand – Investigation No. 177 – Preliminary Affirmative Determination

1. Introduction

This submission is made on behalf of OneSteel Australian Tube Mills Pty Ltd ("ATM") the applicant company that has requested dumping measures on Hollow Structural Sections ("HSS") exported from China, Korea, Malaysia, Taiwan and Thailand. ATM has also requested countervailing measures be applied to HSS exported from China.

2. Investigation timeframes

On 19 September 2011, the Australian Customs and Border Protection Service ("Customs and Border Protection") published ACDN No. 2011/43 detailing the timeframes for the HSS Investigation (No. 177). ACDN 2011/43 notified the requirement contained in the WTO Anti-Dumping Agreement that a preliminary affirmative determination ("PAD") may be made no earlier than 60 days following the date of initiation. In the HSS inquiry, Day 60 was 18 November 2011.

ATM has observed that various exporters have been provided extensions for the lodgment of Exporter Questionnaire Responses beyond the original deadline of 31 October. Extensions have been provided through until 28 November. The Governments of China and Thailand have also been provided with extensions for the completion of Government Questionnaires to 5 and 6 December 2011.

In light of the extensions granted and ATM's understanding that exporter visits are unlikely to commence prior to early January 2012, it is ATM's assessment that Customs and Border Protection will likely approach the Minister for an extension to the date of publication of a Statement of Essential Facts ("SEF").

3. Preliminary Affirmative Determination

3.1 *Extensions for responses*

ATM has noted submissions made on behalf of SAHA Thai Steel Pipe Co PCL ("Saha") of October 2011, and the Government of China ("GOC") dated 19 November 2011. The SAHA submission has sought to make representations that a PAD be based on *"the best, most relevant and reliable information"*. The GOC has submitted that Customs and Border Protection not impose a PAD until all questionnaires (exporter and government) have been reviewed by Customs and Border Protection.

The extensions provided to exporters and governments for the completion and lodgment of questionnaires will further delay access to relief (for the Australian industry) from the injurious effects of dumping and subsidisation. As noted, a PAD cannot be made earlier than Day 60 of an investigation (i.e. in this instance 18 November). The likely delay in the commencement of exporter and government visits from early January 2012 will require the scheduled SEF date to also be postponed.

ATM continues to incur losses attributable to reduced sales volumes and price suppression from the dumped and subsidized imports. In the three months following lodgment of the application, ATM has lost a further \$xxxx (EBIT) per month (i.e. an annualized loss of approximately \$xxxx)¹. ATM submits that a positive PAD imposing provisional measures on the injurious imports is urgently required. ATM recognizes that the extensions provided to interested parties influences the timing of a PAD, however, the decision to apply a PAD should not be further delayed into 2012.

ATM recognizes that in its consideration of a PAD, Customs and Border Protection would consider completed exporter and government questionnaires, along with any other available information (including ATM's application). The last of the outstanding responses will be received by 6 December (refer file note dated 9 November 2011). ATM anticipates that following receipt of the outstanding responses, Customs and Border Protection will be positioned to consider the publication of a PAD.

3.2 *HRC in China*

The GOC has suggested that Chinese HRC prices are globally competitive and that HRC prices in China *"reasonably reflect competitive market costs"*². In support of its assertions, the GOC has further suggested that it has conducted its own research of HRC prices and has *"settled on comparing the prices of coil as sold domestically in different countries or as available in a certain import region (East Asia)"*³.

The GOC has used Steel Business Briefing ("SBB") published prices to contrast Chinese HRC prices with certain other market prices (both domestic and export). A graphic depiction of prices is included at P. 16 of the GOC submission of 19 November followed by the statement that *"the domestic price of Chinese HRC has at all times been at a similar level to the price in the other markets"*. It is further argued by the GOC that an inference can be made that *"the cost of HRC in China was in line with costs in other markets during the POI"*.

ATM suggests that the GOC's assertions are incorrect.

The SBB HRC price referred to by the GOC includes the 17 per cent VAT tax. Once this is removed, a comparison of the Chinese domestic HRC price with a comparable domestic HRC price in Japan (exclusive of taxes) demonstrates a substantial margin whereby the monthly Chinese HRC price is below the Japan FOT price across the investigation period.

¹ Refer OneSteel ATM October 2011 Business Report (Confidential Attachment 1)

² GOC Submission, 19 November 2011.

³ GOC Submission, 19 November 2011, P. 15.

Using SBB data, the Chinese monthly HRC price averages US\$217 per metric tonne below the Japan domestic FOT price across the investigation period. Using an alternate industry publication (i.e. *name*), the Chinese monthly HRC price is an average US\$201 per metric tonne below the Japan domestic FOT HRC price across the investigation period⁴.

A comparison of Chinese HRC prices with SE Asian HRC prices over the investigation period highlights Chinese monthly HRC prices were on average \$72 per metric tonne (*name*) and US\$88 per metric tonne (SBB) below SE Asian HRC prices. ATM does not consider it reasonable to use the SE Asian regional price for HRC as the price is influenced by HRC producers selling excess HRC into the region at less than full cost recovery prices.

ATM does not consider that Chinese HRC pricing can be compared with all of the countries nominated by the GOC – India's HRC price is influenced by export taxes, high import duties and anti-dumping measures; Middle East prices are regional prices and again reflect prices that do not reflect full cost recovery, and the Korea export price also reflects excess production for sale at reduced prices.

Using SBB monthly data, the Chinese HRC price is on average 27 per cent below the Japan HRC price across the investigation period. When contrasted with the SE Asia regional price, the monthly Chinese HRC price is approximately 13 per cent below SE Asian HRC prices.

As HRC accounts for 70-80 per cent of total HSS production costs, the significant discount for Chinese HRC available to Chinese HSS manufacturers and provides for a significant cost advantage over Australian HSS producers.

ATM submits that the available evidence supports the allegation contained in its application for dumping and subsidy measures that Chinese HSS manufacturers are benefiting from artificially low HRC prices. Because of the HRC price advantage, Chinese HSS exporters are able to price exports at levels that undercut the Australian HSS industry's prices. The pricing differential at which Chinese HRC prices are below comparable market HRC prices is material, and for normal value purposes, it will be necessary to surrogate an alternate HRC price into the Chinese exporters' constructed normal value.

4. Concluding remarks

ATM notes that extensions for exporter and government questionnaires have been provided to certain interested parties. All extensions will have expired by 6 December 2011. Exporter visits are unlikely to commence prior to early January 2012. ATM is continuing to incur large losses due to injury from dumped and subsidized imports.

Following receipt and consideration of appropriately completed questionnaire responses, Customs and Border Protection will be well positioned to consider the publication of a PAD. ATM submits that the available information supports the publication of a PAD at the earliest opportunity.

ATM requests Customs and Border Protection to publish a PAD imposing provisional measures on HSS exports from China, Korea, Malaysia, Taiwan and Thailand no later than 31 December 2011.

⁴ Refer Confidential Attachment 2.

If you have any questions concerning this submission please do not hesitate to contact me on (07)
3342 1921

Yours sincerely



John O'Connor
Director

Cc Stephen Porter, General Manager Sales