

No. 0310/ 830



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8 April B.E. 2557 (2014)

Dear Commissioner,

Subject: An anti – dumping investigation into alleged dumping of Hot Rolled Structural Steel Section (HRS) originating in the Kingdom of Thailand

The Department of Foreign Trade (DFT), Ministry of Commerce, Kingdom of Thailand wishes to refer to the Preliminary Affirmative Determination Report No. 223 (PAD no. 223), the anti – dumping proceeding on Hot Rolled Structural Steel Sections originated from, inter alia, the Kingdom of Thailand, and to the Customs Act 1901 – Part XVB. With regard to the PAD no 223, the DFT wishes to draw attention to the following:

1. Alleged Dumping margin and related calculation

1.1 The DFT would request an explanation on the basis of the application of the residual duty for Thailand in that there are no other exporting producers (to Australia) in Thailand except for Siam Yamato Steel (SYS). In these circumstances, the DFT is of the view that the rate of duty applied to other Thai exporters, if any, should be based on the alleged dumping margin established from the questionnaire for the sole exporting producer concerned.

1.2 With regard to the alleged dumping margin of SYS, the DFT considers that the information which properly submitted on level of trade differentiation between domestic and exporting sales by SYS should be accepted pending an on-site verification, before a high rate of securities being imposed. Furthermore, in order for the producer to defend their interests, the DFT would like to request that a copy of dumping margin calculation be kindly made available to the SYS.

2. Alleged Injury and related determination

2.1 The DFT considers that all injury factors listed under article 3.4 of the Article VI, GATT 1994 (Agreement) should be addressed in order to arrive at a preliminary determination. In this respect, the DFT considers that explanations should be provided, amongst others, on production trends, actual capacity utilisation rates, stocks, ability to raise capital, return on investment and prospective growth etc. Although, it appears, from the PAD, that these factors have not been affected by the alleged dumping. The DFT is of the view that a final determination cannot be reached unless these factors are addressed. Moreover, it is deemed that the assessment of injury has only limited to the factors alleged to have caused the injury. This has severely diminished abilities of interested parties to defend their interests.

2.2 The analysis of "other factors" in the PAD is limited to the lack of competitiveness resulting from the strength of the Australian dollar. While the Australian dollar may be a factor to be taken into account, it is clearly not the only one. The fact that imports have remained stable throughout the period of four years under the investigation also cast doubt on the attribution of the strength of the Australian dollar to the claimed injury.

To support the concern raised, the 2013 annual report of One Steel stated:

"In Arrium Steel, the Steel business continued to be challenged by the difficult external environment including the high Australian dollar and generally weak construction and manufacturing markets"

2.3 The impact of declining demand is also seen in the figures 1 depicting as reducing market size. However, it has not been further investigated in the course of the determination and is clearly an important factor. In this respect, the declining demand has lowered levels of production which will, either in whole or in part, result in higher CTMS. This would have contributed or caused the reduced profits and/or alleged price depression and suppression, upon which the final determination is based. By not considering the impact of declining demand on the CTMS, the DFT is of the view that the Commission is unable to satisfy that the price effects from the alleged dumped imports have attributed to the reduction profits. As a result, the requirement of Article 7.1 (ii) of Article VI, GATT 1994 of the AD Agreement (on a causal link) is not met.

2.4 The DFT wishes to stress, in relation with the alleged injury, that no mention is made in the annual report 2013 of the domestic industry linking financial losses incurred to alleged dumping. On the contrary, the weak markets are highlighted with a focus on the resources sector as follows:

"Overall, Steel continued to be challenged by the difficult external environment, including the high Australian dollar and generally weak construction and manufacturing markets. Domestically, large infrastructure projects in the engineering construction sector continued to support strong demand for steel reinforcing products, but deterioration in commodity prices

adversely affected demand from the resources sector as companies reduced maintenance and some project expenditure. In the non-residential and residential construction sectors, activity levels remained generally weak due to credit availability issues and soft business and consumer sentiment"

3. Domestic Pricing

3.1 The DFT would respectfully seek clarification on the price setting of the domestic industry which based on import parity and a premium for being a local supplier. Amongst others, the DFT believes that it would be very difficult to achieve such setting for the subject goods that covers several grades and types and that each type of products commands different prices. In addition, it is common for the prices to be varied between supplying countries and exporters within the supplying countries. However, the applicant has explained that prices are known three months prior to importation, the DFT doubts that such information could be available across all the different types of subject goods.

In this respect, the DFT respectfully requests the applicant to provide a non-confidential summary of the nature of the market intelligence used to set prices. The DFT would also greatly appreciate the domestic industry if it could explain further when (at what point) prices are adjusted to reflect those of imported subjects. Could it be as soon as import prices are known, before deliveries are made, or after deliveries are made? The DFT would be grateful if the applicant could provide non-confidential response to the abovementioned and place it on the record of the investigation.

3.2 The DFT also fails to understand the reasons for which the domestic industry has explained that it has followed import prices when it is the sole producer in Australia and is also a market leader. Furthermore, in any circumstances, if the prices of the domestic industry are invariably set above imports, it is surprising that market share of imports has not increased at the expense of the domestic industry.

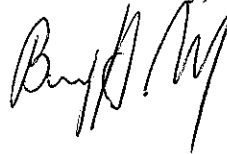
Overall, the DFT believes that if the approach of aligning prices to imports with premium quality allowances is accepted, there will always be a price effect finding in terms of, at least, price undercutting.

4. Other issue

The preliminary determination appears contradictory as the conclusion of reduced profits is not supported by the facts available to the investigation to date. The table 2 shows financial losses on domestic sales throughout the four-year period under investigation. In this context, the DFT requests the Commission to confirm whether the conclusion reached in the PAD is one of reduced profits or financial losses allegedly materialised by the claimed dumping.

The DFT wishes that the raised issues would be received with positive responses and would be addressed in the course of the investigation.

Yours sincerely,



(Miss. Banjongjitt Angsusingh)
Deputy Director-General
For Director-General

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