



**VIEWS OF TURKEY ON PRELIMINARY FINDINGS REGARDING THE ANTI -  
DUMPING INVESTIGATION INITIATED BY AUSTRALIA AGAINST STEEL  
REINFORCING BAR IMPORTS FROM, *INTER ALIA*, TURKEY”**

This document includes the views of Turkey, in accordance with Articles 6.1, 6.2 and 6.11 of the GATT 1994 Anti-Dumping Agreement (hereinafter referred to as “Anti-Dumping Agreement” or “ADA”), on Preliminary Affirmative Determination Report no. 264, issued by Australia Anti-Dumping Commission on March 13, 2015, regarding anti-dumping investigation initiated by Australia against “Steel Reinforcing Bar” imports from, *inter alia*, Turkey.

**A. General Remarks**

Australia Anti-Dumping Commission (“ADC”) initiated an anti-dumping investigation against steel reinforcing bar imports from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and Turkey on October 16, 2014. Turkish Government conveyed its initial written submission to ADC on December 17, 2014. Besides, Habaş Sınai ve Tıbbi Gazlar İstihsal Endüstri A.Ş., the sole Turkish exporter of subject merchandise to Australian market during the investigation period, also submitted its responses to the exporter questionnaire to ADC.

On March 13, 2015 ADC announced a notification about the preliminary results of the investigation, and published a Preliminary Affirmative Determination Report (“PAD”) consisting of the affirmative findings on ‘alleged dumping, injury and the causal link’.

We hereby would like to express our views on PAD and believe that ADC will scrutinize and promptly clarify all the points raised by Turkey.



## **B. Remarks on Negligible Turkish Exports**

In its PAD, the Commission states that based on the questionnaire responses and ACBPS import database it is concluded that import volumes from Turkey are above *de minimis* levels without providing what the underlying percentages are or providing the percentage that is calculated for Turkey.

Pursuant to Consideration Report<sup>1</sup>, investigation period in the current proceeding covers the time period between July 2013 and June 2014. Hence, we believe that the investigating authority should take into account the corresponding 12-months period in its analysis for negligible imports. However, the Commission evaluates Turkey's imports share on the basis of a 13-months period which clearly adds figures of July 2014 to the pertinent analysis period. Having in mind the prevailing investigation period (from July 2013 to June 2014), total imports from all nominated countries were 256,024 tonnes, whereas, Australia's subject merchandise imports from Turkey was 10,179 tonnes (excluding July 2014)<sup>2</sup>. In addition, the Application indicates that total imports from "non-nominated" countries, including New Zealand were 84,058 tonnes<sup>3</sup>. Given all these statistics, Turkey is of the view that the Commission should scrutinize imports from Turkey in the 12-months investigation period (10,179 tonnes) within the context of Australia's all "Steel Reinforcing Bar" imports (340,082 tonnes) in the same period. The pertinent figures show that Turkey's share comprises 2.99% of Australia's total subject merchandise imports. Therefore, Turkey expects the Commission to clarify the actual import statistics and make a proper explanation on why the volume of imports from Turkey is not regarded as negligible.

---

<sup>1</sup> See the Consideration Report, p. 39

<sup>2</sup> See the Consideration Report, p. 22 and 23

<sup>3</sup> Application for the publication of dumping duty notices-Steel Reinforcing Bar exported from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey, August 4, p. 38



### **C. Remarks on Injury Analysis**

Article 12.2 of the GATT 1994 Anti-Dumping Agreement specifies that “*Public notice shall be given of any preliminary or final determination, ... Each such notice shall set forth, or otherwise make available through a separate report, in sufficient detail the findings and conclusions reached on all issues of fact and law considered material by the investigating authorities*”. Also the Commission’s Dumping and Subsidy Manual specifies in part that “*Before any action can be taken against dumped and/or subsidised imports it must be demonstrated that the Australian industry producing like goods is injured and that that injury is caused by the dumped (and/or subsidised) imports.*”<sup>4</sup> In addition, Article 6.2 of the GATT 1994 Anti-Dumping Agreement states that “*Throughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests*”. However, ADC has published PAD without providing any sufficient detailed information to interested parties. Therefore, Turkey believes that the Commission has not granted an ample opportunity to interested parties to defend their interests prior to the provisional measure’s entry into force.

Article 3.4 of the ADA sets forth that “*The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments...*” The Panel in Mexico-Corn Syrup pins down that *the listed factors in Article 3.4 must be considered in all cases and the consideration of each of the Article 3.4 factors must be explicit in the final determination of the investigating authority.*<sup>5</sup> Hence Turkey expects Australia to clarify whether all the

---

<sup>4</sup> See Page 120, Dumping & Subsidy Manual.

<sup>5</sup> See Panel Report on Mexico Corn Syrup Case para. 7 & 128.  
[https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds132\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds132_e.htm)



points raised in ADA were duly considered by the Commission and to immediately disclose the preliminary findings.

Besides, pursuant to Article 3.5, *“Any known factors other than the dumped imports which at the same time are injuring the domestic industry should be examined by the authorities and the injuries caused by these other factors must not be attributed to the dumped imports.”*

Despite the prevailing provisions of ADA and the relevant WTO jurisprudence, the PAD touched on just OneSteel’s loss of sales volumes, loss of market share, price suppression, reduced profits and profitability during the injury period which is based on financial information submitted by OneSteel and verified by the ADC.<sup>6</sup> Obviously, there is no satisfactory explanation about the other injury trends such as capital investment assets, productivity, return on investments, revenue, capacity utilisation, stock movements, cash flow measures, wages and funding, R&D expenses and employment. Even in the PAD, it is written that *data provided by OneSteel would be evaluated as ineffective in injury assessment of the ADC and additional information and evidences will be investigated by the ADC.*<sup>7</sup>

Turkey expects ADC to issue the relevant findings including all aspects of injury analysis and not attribute any injury stemming from other factors to Turkish imports.

#### **D. Remarks on “Un-Cooperative Exporters Rate”**

Pursuant to PAD, ADC issued a preliminary dumping margin of 8.2 % for “uncooperative” Turkish exporters.<sup>8</sup>

---

<sup>6</sup> See the Section 7 of the PAD.

<sup>7</sup> See the Section 7.8 of the PAD.

<sup>8</sup> See the page 42 of the PAD



*June 26, 2015*

Turkish official statistics reveal that Habaş was the only exporter of subject merchandise to Australia during investigation period, i.e. July 1, 2013 – June 30, 2014. Habaş clearly showed its willingness to cooperate with the Australian investigating authorities and provided a fully responded questionnaire for ADC. Subsequently, ADC calculated a company-specific preliminary dumping margin of 4.7 %, for Habaş. Given the fact that Habaş is the sole company which exported steel reinforcing bar to Australia in the dumping assessment period, Turkey believes that ADC could not calculate “others rate” for “uncooperative” companies. Clearly, the identification of an “uncooperative” Turkish company is unsubstantiated in the current investigation and hence, Habaş’s margin should be used for all Turkish imports.

Turkey expects ADC to immediately clarify why “uncooperative exporters’ rate” was calculated for Turkey and to bring its decision of preliminary dumping margins for Turkey into compliance with the prevailing provisions of WTO Anti-Dumping Agreement.

#### **E. Remarks on Carbon Tax**

PAD states that *the ADC will continue to seek further evidence on these issues including initiation of carbon tax rate and continue to assess the degree to which, if at all, these factors may have caused injury to the Australian industry in relation to this investigation.*<sup>9</sup> Turkey hereby would like to remind its previous submissions which pointed out that the Carbon Tax has damaged the competitiveness of the Australian steel industry since July 2012.

Once again, Turkey would like to present further evidences on the subject. Australian Government put into practice \$300 million Steel Transformation Plan assistance package, which contained a four-year period review mechanism. However, OneSteel Chairman stated that *they are concerned about what would happen to their competitive position “at least during the four-year life of Steel Transformation Plan assistance package.” [...] “They could*

---

<sup>9</sup> See the Section 8.5 of the PAD



**REPUBLIC OF TURKEY  
MINISTRY OF ECONOMY  
DIRECTORATE GENERAL OF EXPORTS**

*June 26, 2015*

*apply for more advanced assistance package, if appropriate, to struggle with the current difficult market conditions.”<sup>10</sup>*

As it is seen, Carbon Tax is likely to negatively affect OneSteel at least four years following the effective date, July 2012 and consequently, the negative effects of the Carbon Tax on OneSteel will last to the second half of 2016.

Once for all, without making an observation about the net impact of the Carbon Tax, the ADC publicised a dumping duty notice. Taking into account Article 3.5 of ADA, Turkey invites ADC to make an analysis on the probable effects of the Carbon Tax on the OneSteel’s competitiveness.

#### **F. Conclusion**

Turkey, once again, would like to express its regrets for the initiation of the anti – dumping investigation and unexpected imposition of provisional measures which would be likely to impede the operation of market forces in a competitive environment.

Turkey certainly believes that abovementioned points will be taken into consideration and ADC will act consistently with the pertinent provisions of the Anti – Dumping Agreement and relevant WTO – jurisprudence. Turkey also expects ADC to duly take into account the fact that only Habaş exported subject merchandise to Australia during the investigation period for the purpose of assessing dumping and kindly requests Australia to revoke “uncooperative exporters rate” for Turkish companies.

---

<sup>10</sup> 2011 OneSteel Annual General Meeting- Chairman’s Address, [online]  
[http://www.onesteel.com/images/db\\_images/news/2011%20AGM%20Speech%20&%20Presentation%20-%202011%20November%202011.pdf](http://www.onesteel.com/images/db_images/news/2011%20AGM%20Speech%20&%20Presentation%20-%202011%20November%202011.pdf)