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Director Operations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001

Dumping investigation into steel reinforcing bar exported from Turkey

Dear Director,

This submission is on behalf of Diler Demir Celik Endustri ve Ticaret A.S. (“Diler”), in response to the Anti-Dumping Commission’s (“the Commission”) preliminary findings outlined in Statement of Essential Facts Report No. 495 (“SEF 495”).

Diler supports the Commission’s finding that its exports of steel reinforcing bar (“rebar”) during the investigation period were not dumped. The Commission has determined a negative dumping margin of -7.6%. Diler confirms that the Commission’s dumping findings outlined in SEF 495 provide an accurate summary of the verification team’s findings following detailed examination of Diler’s financial records.

Likewise, the Commission has also determined a de minimis subsidy margin relevant to Diler’s exports. Diler requests the Commission to take into account the comments below regarding identified issues with Program 17.

It is also noted that Diler’s public record version of its verification report has been on the public record for over 5 weeks now and no submission or information has been presented that would cause the Commission to overturn or reconsider its dumping and subsidy findings as they relate to Diler. Therefore, pursuant to subsection 269TDA(1) and (2) of the *Customs Act 1901*, the Commission must terminate the investigation immediately, to ensure that legitimate export trade is not further impeded.

Program 17 – Benchmark interest rate

It is noted that for the purposes of SEF 495, the Commission revised its benchmark interest rate to [REDACTED]%, to calculate the amount of benefit conferred from rediscount loans investigated under program 17. The benchmark interest rate used to calculate the benefit for the purposes of the verification report was [REDACTED]%.

The change in the benchmark rate appears to stem from the calculation of an average interest rate taken from [REDACTED] loans reported by Diler and Kroman. Whilst the Kroman rate of interest remains confidential, Diler is aware that [REDACTED] [REDACTED] [error in calculation of benchmark interest rate]

If the error is confirmed following submissions made by Kroman, then Diler requests the Commission to also amend the corresponding benchmark rate used to calculate Diler's benefits conferred under program 17.

Currency movements

Whilst the Commission's interpretation and application of the short-term fluctuations referenced in subsection 269TAF(3) of the Act are clearly explained in SEF 495, it appears that the Commission has not properly addressed the primary issue raised in Diler's submission regarding application of subsection 269TAF(4) of the Act. That is, that the Commission's previously stated interpretation and application of subsection 269TAF(4) of the Act, confirms that this provision is only relevant in circumstances where the local currency appreciates against the export denominated currency.

In SEF 495, the Commission merely reiterates that its '*analysis of the exchanges applicable to exports of the goods from Turkey found that the Minister cannot be satisfied under subsection 269TAF(4) that those exchange rate has undergone a sustained movement during the investigation period.*' The Commission's response is missing an explanation as to whether subsection 269TAF(4) of the Act would be applicable if a sustained movement was found to have occurred, in the circumstances of a depreciating Turkish Lira against the US Dollar.

Diler requests the Commission to address this issue more clearly in its termination report, to provide greater transparency and clarity to all interested parties surrounding the Commission's policy and practice on this particular issue.

Duty drawback adjustment

Despite the determination of a negative dumping margin, Diler wishes to reiterate its claim for a downward adjustment to the constructed normal values, to take account of the drawback of duty on imported raw materials used in the production and subsequent sale of the goods exported to Australia. The Commission has expressed the view that evidence was not presented which showed that import duty was paid for any imported raw materials that were consumed in producing goods sold domestically.

This view by the Commission overlooks the fact that the Turkish Inward Processing Regime operates as a substitution drawback mechanism, whereby it is irrelevant whether the actual imported material was consumed in the exported or domestic finished goods. The main purpose and benefit of a substitution drawback mechanism is that it makes it possible for companies to obtain a drawback of duty without the expense and effort of maintaining separate inventories for dutiable and non-dutiable materials.

The Commission's Dumping and Subsidy Manual provides clear guidance on the evidentiary standard for supporting and accepting a drawback adjustment with a substitution drawback scheme. The Manual confirms that:

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If such a scheme operates in the country of export, the Commission may allow the drawback payable on the substituted domestic materials if the like materials were imported within the previous two years and the total amount of the drawback does not exceed the total duty paid.

As verified by the Commission, both of the identified conditions for accepting the adjustment claim are captured within the Turkish Inward Processing Regime. Therefore, Diler urges the Commission to reconsider its position and apply the drawback downward adjustment to the constructed normal. If correctly applied, Diler notes that its dumping margin would be revised to -[REDACTED] %.

Yours sincerely

John Bracic