

STAUGHTONS

Staughtons Trade Advisory Group Pty Ltd – ABN 65 605 424 459
PO Box 867, Bacchus Marsh, Vic., 3340
Ph +61 (0) 459 212 702

PUBLIC RECORD VERSION

The DIRECTOR,
INVESTIGATIONS 2,
ANTI-DUMPING COMMISSION,
CANBERRA, ACT 2600.

INVESTIGATION No 499
CONTINUATION No 505
SYAM YAMATO STEEL (SYS)

2ND September 2019.

BY Email: investigations2@adcommission.gov.au

Dear Director,

I am writing on behalf of the Thai exporter of HRS, Syam Yamato Steel (SYS) and in relation to the above mentioned investigations.

INTRODUCTION:

SYS is appreciative of been given the opportunity to meet with the Commission to expand on the claims previously submitted and as outlined in the Commission's public record of that meeting.

The Commission's verification of the SYS costs and sales data was based on positive evidence and there has been absolutely no inference of that data being unreliable. Whilst SYS is respectful of the Commission needing to have regard to processes based on formulated policy which are clearly more than just 'house rules', SYS maintains that the plain meaning of the relevant 'anti-dumping' legislation should take precedence over any policy. Ultimately however the Minister has absolute discretion on whether interim dumping duty measures should be imposed to remedy any demonstrated material injury attributed to imports with 'dumping' margins exceeding 2% or more.

In addition to having that discretionary power, and even allowing for this being an 'anti-dumping' issue, SYS also understands that the Minister when making her decision has an obligation to take into consideration the National Interest ramifications and not just the commercial interests of a privately owned monopoly local producer/distributor.

Regardless of its operating name this particular applicant certainly has a long 'history' in terms of recourse to the anti-dumping system and it is a telling factor that the Commission, in para 5.3.4 and Figure 6 of SEF 505, found that this applicant, Australia's sole producer of the GUC with a National footprint of some 43 branches { plus the recently acquired 'Steelforce' operation, } has not achieved positive results on profit and profitability since year 2010, a period of four years prior to when measures were introduced in November 2014.

Understandably therefore, most reasonable observers would conclude that this applicant's operations of producing and distributing the GUC since year 2010 have been negatively challenged in terms of achieving an acceptable level of viability and clearly, the imposition of past dumping duty measures on imports have not improved, let alone reversed, the applicant's functional and operational viability.

STAUGHTONS

Staughtons Trade Advisory Group Pty Ltd – ABN 65 605 424 459
PO Box 867, Bacchus Marsh, Vic., 3340
Ph +61 (0) 459 212 702

PUBLIC RECORD VERSION

A reasonable conclusion is that this applicant's profitability problems have not only been long term, the root causes must be other than what it continually claims are attributable solely to so termed 'dumped' imports.

In terms of its claimed causality and material injury from unfairly priced imports, the applicant's self-imposed need to adopt an IPP plus a domestic pricing premium sales model for the GUC is the only apparent factor in its 'suffering' price undercutting, price suppression etc.

From SYS's perspective those claims are simply undermined by the June 27th 2019 submission on behalf of the Korean exporter, Hyundai Steel. That submission on behalf of Hyundai Steel stated, inter alia;-

' insofar as Hyundai Steels exports to Liberty Steel are concerned, the export prices reflect Hyundai's acceptance of Liberty Steels pricing requirements '.

Hyundai Steel was the biggest volume exporter of the GUC to Australia in year 2017, and the second biggest exporter in year 2018 (Figure 7 SEF 505). Hyundai Steel also demonstrably supplied the applicant with imported product, and in light of the 'Hyundai' statement of above the underlying concern in relation to the applicant's own imports and domestic IPP model is the question of whether it not only materially influenced import prices but whether its own import pricing actually determined the import prices that allegedly undercut its own sales of locally produced GUC.

Of current interest also is Australia's competition regulator (The ACCC) is reportedly being close to launching criminal prosecution in addition to having launched civil action against Australia's other monopoly steel producer (of flat products) for allegedly trying to fix the price of flat steel imports into Australia and whilst SYS is not in any way suggesting the applicant in these cases (499 and 505) is involved with price fixing, the concern is whether imported prices of the GUC are effectively influenced by factors other than those claimed by the applicant.

Whilst the applicant's Whyalla steel making operation may be logistically challenged it does have its own iron ore and coking coal supplies and in terms of being able to benefit from other natural competitive advantages, SYS notes that based on RBA currency data, the Australian dollar has depreciated against the US dollar currency by 10% since the first quarter of year 2018.

Given the reality that all imports of the GUC compete for sales in the one Australian market and as SEF 505 found, the sole Australian producer of the GUC simply lacks the capacity to supply the entire (increasing) Australian market, the Commission, should, if it is to maintain the view that the continuation of measures beyond November 2019 are justified, seriously consider recommending the Minister impose such measures in the form of a NON-INJURIOUS FOB Australian Dollar price based on the non-dumped export prices of the two Taiwan exporters that have negative preliminary dumping duty margins.

On the basis of the Australian date of sale being the date the importer's customer has confirmed an order on the importer and the lead time on FIS delivery of the imports can be more than three months, SYS has also requested the Commission to review its basis for claiming in SEF 505 that the SYS imports undercut the applicant's by 6-7%.

STAUGHTONS

Staughtons Trade Advisory Group Pty Ltd – ABN 65 605 424 459
PO Box 867, Bacchus Marsh, Vic., 3340
Ph +61 (0) 459 212 702

PUBLIC RECORD VERSION

DETERMINATION of SYS DUMPING MARGIN.

As noted in the visit report and expressed in the meeting with the Commission on the 27th August 2019,, SYS do not accept the Commission's determination of dumping duty rate of 5% for reasons including:-

- the SYS export sales were determined in accordance with section 269TAB, and the domestic sales were determined in accordance with section 269TAC;
- section 269 TAC provides for the domestic sales values to be determined on the price paid or payable;
- the Commission should therefore accept the actual ,factual, domestic credit cost of █% applied by SYS as a legitimate due allowance;
- SYS never factored in an export credit cost on its FAS sales price to Australia and every transaction bar the last shipment exported on █ had zero payment terms. Given the Australian seasonal* factors at that time part payment for that shipment was effected prior to the date of export with the balance being paid within a few days after the █. (*Bank holidays etc)
- the MCC structure was introduced for the purpose of determining the most directly comparable domestic sales of like goods to the goods exported. Based on it's interpretation of the definition of 'like goods' SYS maintains that the definition on 'like goods' references two types of 'like goods', namely identical goods and not identical goods. When there are sufficient domestic OCOT sales of identical goods, then there is no requirement for the Commission to include surrogate models based on the MCC structure.

Conclusion;

- SYS thanks the Commission for the consideration provided in relation to its dumping duty claims which are based on positive evidence and, in SYS's view, supported by relevant legislation.
- In terms of the applicant's claimed material injury being caused by dumped imports, SYS requests the Commission to seriously reconsider the findings on price undercutting and price suppression on the basis that the necessary analysis needs to be undertaken when the actual date of sale in Australia occurs for imported GUC.

STAUGHTONS

Staughtons Trade Advisory Group Pty Ltd – ABN 65 605 424 459
PO Box 867, Bacchus Marsh, Vic., 3340
Ph +61 (0) 459 212 702

PUBLIC RECORD VERSION

- The Commission, and the Minister would be aware that the infrastructure spend in Australia is currently four times that of when measures were imposed in November 2014, and given Australian and State Government transport infrastructure will only increase in the foreseeable future, the imposition of measures on the only alternative supply source of GUC to the Australian market may not only be punitive for some reliable, traditional exporters of GUC to Australia, but more importantly, would only result in putting a handbrake on the market supply of goods required to meet Australia's projected increased demand.

Regards,

On Behalf of SYS.