

STAUGHTONS

PUBLIC RECORD VERSION

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

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

INVESTIGATION No 499
CONTINUATION No 505
SYAM YAMATO STEEL (SYS)-Interim Response.

8th July 2019.

BY Email: investigations2@adcommission.gov.au

Dear Director,

I am writing on behalf of the Thai exporter of HRS, Syam Yamato Steel (SYS) being an interim response in relation to the Commission's determination re the above mentioned investigations.

DETERMINATION of DUMPING AMOUNT:

As noted in the SYS verification report, SYS do not accept the Commission's determination of dumping duty rate of 5% for reasons including:-

- the methodology employed by the Commission is considered to be a departure from the provisions of section 269 TACB(2) in that SYS submits any determination should be based on the WAV of all relevant transactions;
- 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 has not accepted the actual domestic credit cost (DELETED) % applied by SYS as a legitimate due allowance vide section 269TAC;
- the Commission has not accepted any domestic marketing expenses incurred by SYS being on the basis of relevant expenditure as a proportion of GUC domestic sales revenue as provided for in section 269TAC (8).

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MODEL CONTROL CODE STRUCTURE (MCC):

SYS notes the record of the Commission's meeting with Liberty Steel (applicant) which was posted on the website on 3rd July 2019 detailing, inter alia, the applicant's criticism of how the recently introduced MCC structure is being applied by the Commission in relation to co-operating exporters.

That record of the meeting also states that whilst the Commissioner had invited comment from interested parties on the MCC structure it adopted from the Liberty Steel application, no submission had been received prior to the date exporter questionnaire (EQ) responses were due.

SYS needs to state that it submitted the EQ responses on the due date of 4th March 2019 and that prior to that date, on the 25th February and on the 1st March 2019, SYS made submissions to the Commission on the MCC structure adopted by the Commission. Further submission was made on the 12th March 2019.

CLAIM:

The MCC structure is only a recently introduced Policy mechanism by the Commission and SYS accepts the need for an appropriate MCC mechanism when the exporter has insufficient or an absence of matching domestic sales to the export sales and that an appropriate MCC structure should be applied for purposes of testing both OCOT and Sufficiency requirements.

SYS however is strongly opposed to the MCC mechanism being applied by the Commission that clearly results in a determination of what is factually only technical dumping by reason of the inclusion of, say, steel grades that are not truly comparable as is being proposed by Liberty Steel.

SIGNIFICANCE of SYS DOMESTIC SALES:

SYS however had matching, identical domestic sales to those exported (DELETED) and for some periods of the investigation, those domestic sales satisfied both requirements of the OCOT and SUFFICIENCY tests.

Given SYS had matching, identical sales, there should be no practical reason for the Commission to apply any MCC mechanism of including other comparable grades of domestic sales for those periods in question.

CONCERN:

Given Liberty Steel's criticism of how the Commission may be applying the MCC mechanism and the Commission's acknowledgement that it will now review the current dumping duty determinations of exporters, SYS is concerned that it may not be provided the opportunity to consider the basis and data for any changes as a consequence of that review.

REQUEST:

Please contact the writer for any further information relating to this interim response on behalf of SYS.

Regards

M J Howard