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22 June 2020

The Director
Investigations 1
Anti-Dumping Commission

By Email: investigations1@adcommission.gov.au

Dear Mr Piper,

CONTINUATION INQUIRY No. 532 (CON 532)

CONCERNING ANTI-DUMPING MEASURES APPLYING TO HOLLOW STRUCTURAL SECTIONS (HSS) EXPORTED FROM THE KINGDOM OF THAILAND (THAILAND)

Austube Mills Pty Ltd (**Austube Mills**) provides this further submission to the Anti-Dumping Commission (the Commission) for CON 532 expanding on its earlier responses to the Commission's proposed recommendation outlined in the Statement of Essential Facts No. 532 (**SEF 532**).

In *Section 7.5 Commission's assessment*, the Commission summarises reasons that it is not satisfied that the expiration of the anti-dumping measures applying to HSS exported to Australia from Thailand would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the antidumping measures are intended to prevent.

The reasons the Commission states that it has formed this assessment are based on its preliminary views;

- That the current measures have had little impact on HSS being exported from Thailand.
- That the measures have not coincided with any improvements in the economic condition of the Australian industry.
- The significant existing price advantage enjoyed by Thailand exporters in the Australian market has not translated into any overall increase in sales volumes or market share.
- There is no evidence before the Commission to suggest that in those circumstances of *reduced demand* as a result of COVID-19, *increased competition on prices to achieve sales volume and market share*, the Thailand exporters would reduce their already low prices by a degree which is sufficient to commence dumping, nor that in doing so the Thailand exporters would cause injury to the Australian industry that would be material.

Austube Mills contends that the Commission's considerations as expressed in SEF 532 do not correctly interpret the facts and evidence available to it.

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1. The Commission considers that the current measures have had little impact on HSS being exported from Thailand.

Austube Mills disagrees with the Commission's conclusion that the measures have had little impact on the HSS being exported from Thailand.

In its application for continuation¹, the verification visit², its submission of 15 May 2019³ and its submission dated 9 June 2020⁴, Austube Mills outlined the evidence before the Commission that established that the measures have had an impact on HSS exported from Thailand.

Since measures were first imposed with the making of a PAD in September 2014, the findings in SEF 532 demonstrate that there has been a significant reduction in:

- The number of Thai HSS producers exporting to Australia. ⁵
- The tonnes of HSS exported from Thailand to Australia.⁶
- The market share of Thai HSS exported to Australia.⁷

Highlighting the effectiveness of the measures, the reduction in the number of Thai exporters, the tonnes they exported and their market share to Australia occurred during a period in which large volumes of Chinese and Vietnamese imports have flooded the Thai domestic market and sales to Thai exporters' largest export market, the United States (**US**), were significantly reduced due to the imposition of the US imposed Section 232 tariffs on steel products including HSS.

If the measures were not effective in preventing dumping there appears to be no logical commercial reason why Thai HSS producers such as Saha Thai that:

- are exported orientated ⁸
- have spare export capacity⁹
- have continued to invest in export capability¹⁰
- have reduced access to their biggest export market, the United States of America.
- based on the Commission's dumping margin calculations make 13% more profit by selling to Australia than they do to their domestic market

¹ EPR CON 532/002, pps 20-21, and Confidential Attachment 3

² Confidential Attachments Australian Market, Injury Calculations and PowerPoint Market Material Injury refer.

³ EPR CON 532/ 022

⁴ EPR CON532/027

⁵ EPR 532 -027 p 2

⁶ Ibid p2

⁷ Ibid p3

⁸ Confidential Att 4 to Application, pps,14-17

⁹ EPR 532 -027 p 8

¹⁰ https://sahathaiterminal.com/wp-content/uploads/2019/09/ENG-PORT_IFA-report-.pdf , p.2

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have lost HSS volume and market share in Australia since the measures were imposed.

If the Australian anti-dumping measures had not been effective, it would have been likely that the Thai exporters would have not only maintained their volumes and market share, but likely increased their exports to Australia utilizing the 100,000 tonnes plus additional capacity that the Commission has identified amongst just three Thai HSS exporters.

Austube Mills further contends that the Commission should not regard the fall of HSS prices in the Australian market after the imposition of the measures as a failure of the measures' effectiveness. The Commission as part of the verification process would be aware that Hot Rolled Coil (*HRC*) raw material cost constitutes between 80-90% of the cost of HSS. This means that changes in global HRC prices greatly influence the movements in HSS prices. The graph below shows that HRC fell significantly in the period after the initiation of investigation 254 and it is therefore logical and expected that HSS prices would also fall.

Confidential Graph 1 – HRC prices¹¹



2. That the measures have not coincided with any improvements in the economic condition of the Australian industry.

Austube Mills disagrees with the Commission's view in SEF 532 that the measures have not coincided with any improvements in the economic condition of the Australian industry.

The Commission's "*Figure 10 - Profit and Profitability*" published on page 28 of SEF 532 shows a dramatic improvement in the profit and profitability following the imposition of the measures. In the 12 months following the imposition of a Preliminary Affirmative Determination (PAD) in September 2014, the losses in profits experienced by the Australian industry reduced by approximately 50%.

¹¹ Confidential subscriber data

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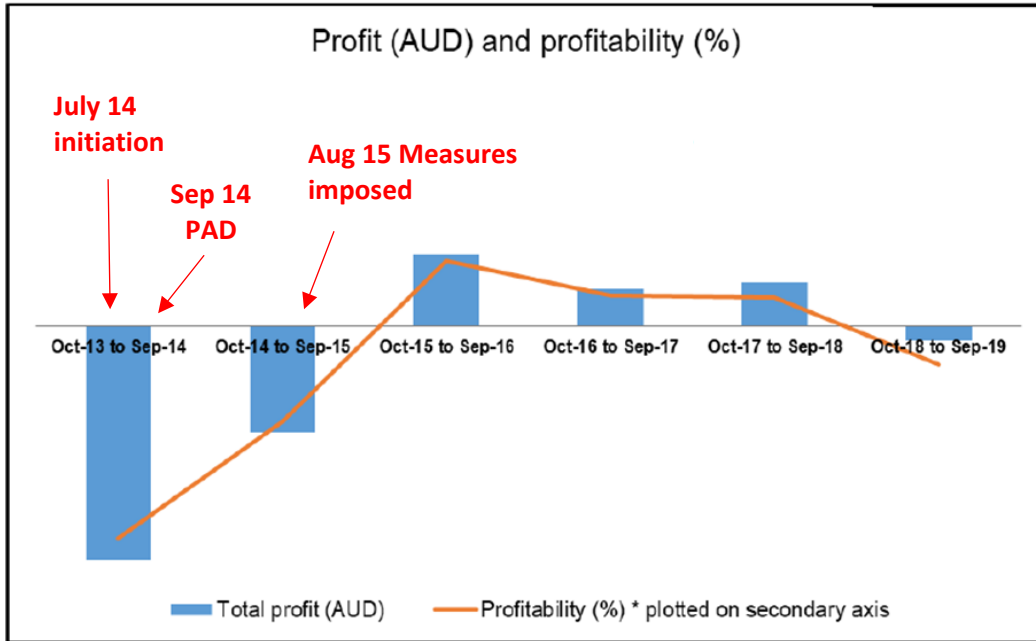


Figure 10: Profit and profitability

Twelve months after the Minister imposed final measures in August 2015, the Australian industry became profitable and remained so for the following three years.

Further supporting Austube Mills’ view that the measures against Thai exporters supported the improvement in the economic conditions of the Australian industry is the fact that the biggest driver in the increased profits and profitability occurred for black HSS, the predominant model exported by the Thai exporters.

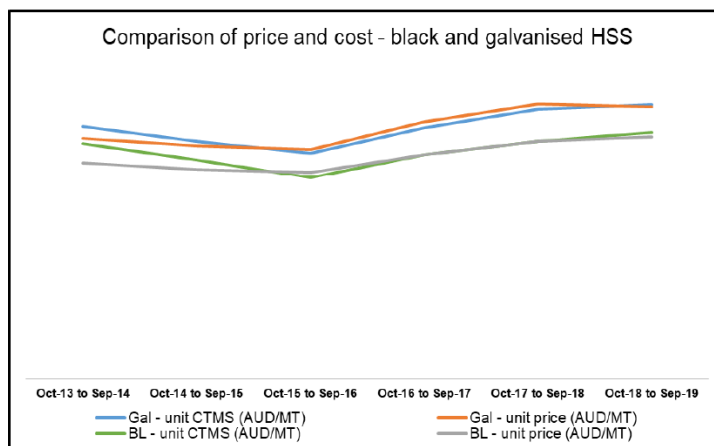


Figure 9: Comparison of the Australian industry’s unit costs and unit prices (black and galvanised)

If the measures were not to continue, Austube Mills contends that it is very likely that the number of Thai exporters to the Australian market would increase leading to increased export volumes at dumped prices and again cause material injury to the Australia industry in the form of lost volume, market share and reduced profits and profitability.

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3. The significant existing price advantage enjoyed by Thailand exporters in the Australian market has not translated into any overall increase in sales volumes or market share.

It is not clear from SEF 532 what the Commission specifically means by the statement “*The significant existing price advantage enjoyed by Thailand exporters*” and whether the price advantage implies that Thai exporters have a price advantage over just the Australian industry or whether a price advantage extends to exporters from other countries also.

In either case, as outlined above and in its submission dated 9 June, Austube Mills contends that the Commission appears not to have accounted for the significance of both product mix and the form of measures that applies to other non-Thai exporters.

The Model Control Codes reported in the Thai exporter visit reports show that both Saha Thai and Thai Premium Pipe only exported the lower price painted or non-oiled and painted HSS models (“black”) during the inquiry period. Both the Australian Industry and other non-Thai exporters sell a galvanised HSS as part of their product mix that typically sells for an additional \$ \blacksquare /Mt price premium above that of non-galvanised black HSS. (*Commercially sensitive pricing*) This is likely to be the contributing reason for the lower FOB prices of Thai HSS exports compared to non-Thai exports, along with the fact that Thai Premium Pipe has an *ad valorem* method of duty calculation and the exporters from other countries have a floor price component, either directly or as part of the combination method.

Austube Mills submits that the more plausible reason that Thai exporters have not been able to translate any theoretical price advantage into any overall increase in sales volume or market share is that the measures have been effective in stopping them from dumping and causing further material injury.

The Commission would be making a grave misjudgement if it recommended that the measures should no longer continue. The Commission is aware the Australian HSS market is price sensitive and notes that the impact of COVID-19 on the Australian market is likely to lead to increased competition on prices to achieve sales volume and margin. This would likely lead to the recurrence of material injury to the Australian HSS industry caused by dumping.

4. The Non-Injurious Price and the Unsuppressed Selling Price

Austube Mills also seeks to comment on the level of profit that the Commission uses to determine the Non-Injurious Price (NIP) and the Unsuppressed Selling price (USP). SEF 532 states that the Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping and outlines its hierarchy of options for establishing an USP:

- the price or market approach of the Australian industry in a period unaffected by dumping;
- the constructed approach, using the Australian industry’s CTMS data and a reasonable amount for profit; or
- the price or market approach of undumped imports.

Austube Mills agrees with the Commission’s assessment that the Australian HSS market was affected by dumping as a result of the preliminary dumping margins calculated in the review of measures (REV 529 refers) and as such the

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appropriate method to establish the unsuppressed selling price is to use the constructed approach based on the weighted average CTMS for the Australian industry in the inquiry period; and a reasonable amount for profit.

Austube Mills notes that the purpose of the lesser duty rule is to ensure that the anti-dumping measures are effective in remedying injurious dumping but do not have impacts on the wider economy that are more distorting than necessary to address the effect of dumping. The critical discretionary tool the Commission has to use to set the NIP is the level it regards as a reasonable amount of profit.

For previous investigations involving HSS, the Commission has used the industry profit that was achieved in the period from January to September 2008. SEF 532 states that the Commission will no longer use this as the period as it is too far removed from the current review period and that significant changes have occurred in the Australian industry or the Australian market at the time. The Commission provides no further insight into the reasons why the profit margin should change let alone reduce.

Paradoxically however, the Commission having found that the Australian market has been affected by dumping during the inquiry period, has chosen to use what it refers to as “profit survey’s”, (pricelists and target revenue figures from management and business reports) that are based on the market and industry conditions in the inquiry period, as the proxy profit. The rationale for this approach is difficult to follow as management reports and targets will reflect what is achievable in the current or forecast market conditions, which the Commission has found to be affected dumping.

Austube Mills contends that a more reasonable approach to achieve the policy objective of the Lesser Duty Rule, is use the level of profit required for each industry that allows for reinvestment. This is the approach recently adopted by the European Commission in its Trade Modernisation regulations.

In 2018 the European Commission changed its practices for calculating the non-injurious price for the injury margin, advising ¹²

The Commission calculates a non-injurious price in order to calculate an injury margin. This is based on the full cost of production and a target profit. Now the cost of production will include costs related to:

- *investment, research and development and innovation which, up to now, have not always been included as industries’ have had to cut costs in reaction to unfair imports.*
- *future cost increases reflecting the cost of compliance with multilateral environmental agreements and International Labour Organisation Conventions during the lifetime of TDI measures. This is particularly relevant with regard to Emission Trading Systems.*

A minimum target profit of 6% is introduced – based on long-term profitability figures established for the European industry. **Higher margins may be possible on a case-by-case basis.**

¹² https://trade.ec.europa.eu/doclib/docs/2018/june/tradoc_156921.pdf

PUBLIC RECORD

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Austube Mills submits that the Commission in determining the USP, should use levels of profits that are specific to each industry allowing for reinvestment in R&D, innovation, compliance and sustainability. Given the capital-intensive nature of the steel industry, the level of profit required is likely to always be greater than 6%.

The policy danger for all Australian manufacturers is that if the Commission sets the level of profit too low, dumping and injury are not fully remedied by the measures. There is little risk however to the broader Australian economy if the profit level is set appropriately, as once the NIP reaches the level of the exporter's normal values, they are able to compete fairly in the Australian market at those prices.

For and on behalf of the Australian industry member, Austube Mills.