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15 May 2020

The Director
Investigations 1
Anti-Dumping Commission

By Email: investigations1@adcommission.gov.au

Dear Director,

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 the following submission to the Anti-Dumping Commission (the **Commission**) for CON 532 regarding the continuation of the measures.

A. Introduction

Sub-paragraphs 269ZHF(1)(a)(i) and (ii)¹ note in regard to the continuation of the measures that the Commissioner must give the Minister a report recommending that the dumping notice remain unaltered or that the notice cease to apply to a particular exporter.

Subsection 269ZHF(2) states the Commissioner:

must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

This submission addresses why the Commissioner should be satisfied, as a result of CON 532, that the expiration of the anti-dumping measures, as applicable to all exporters from Thailand, would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

B. Dumping, or likelihood of dumping, by Thai exporters continuing or recurring

1. No dumping by exporters

The key consideration for the Commission is not whether there was an absence of dumping, but whether, if the measures were to expire, it would lead or likely lead to the recurrence of dumping and material injury caused by the dumping.

¹ References in this submission to legislative provisions are references to the *Customs Act 1901*, unless expressly specified.

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The situation where an exporter is not found to be dumping following the imposition of measure and in the course of a continuation inquiry is envisaged by the legislation through the use of prospective language, such as, in the phrase “would lead, or would be likely to lead to a recurrence of the dumping that the measures are intended to prevent”. The cessation of dumping following the imposition of measures is the intended function of the anti-dumping system.

The Anti-Dumping Review Panel (**ADRP**) considered this issue in ADRP Report No. 70 (**REP 70**) in regard to Hot Rolled Coil (**HRC**) where the Commission had recommended the continuation of the measures.

Whilst exports by the Applicants were found to not be dumped during the inquiry period by negative margins, the Commission considered, if the measures were not continued, it is likely that future exports of HRC from the Applicants would be dumped, and that it was likely that material injury would be experienced by BlueScope as a result of that dumping.²

The ADRP Panel Member in REP 70 affirmed the Commission’s recommendation that measures be continued noting in relation to the finding of no dumping:

As to the significance of the Applicants’ negative dumping margins throughout the inquiry period, neither the Anti-Dumping Agreement nor the Act requires revocation as soon as an exporter is found to have ceased dumping and the continuation of measures is not precluded a priori in any circumstances other than where there is present dumping.³

2. Preliminary margins

The verification reports for Saha Thai Steel Pipe Public Co., Ltd ⁴(**Saha Thai**), Thai Premium Pipe Co Ltd ⁵(**TPP**) and Pacific Pipe Public Co. Ltd⁶. note negative preliminary margins for the exporters.

Austube Mills has provided submissions in response to matters contained in the Saha Thai⁷ and TPP⁸ verification reports contending the preliminary margins found and notes that the margins found are preliminary and may change in the Statement of Essential Facts.

3. Saha Thai submission on no dumping

Saha Thai claims in its submission that it has consistently exported the goods to Australia at prices well above its corresponding normal values since the imposition of the measures⁹.

² ADRP REP 70, p.6, para 19.

³ ADRP REP 70, p.13, para 48.

⁴ EPR REV 529/035, p.20

⁵ EPR REV 529/038, p.19

⁶ EPR REV 529/049

⁷ EPR 529/040

⁸ EPR 529/042

⁹ EPR 532/017

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Whilst noting that the intended effect of anti-dumping measures is precisely such an outcome Austube Mills contends that the contention by Saha Thai is flawed and not supported by the available evidence.

The available evidence on the public record for Duty Assessment (DA0084) only refers to a duty assessment being lodged in February 2017¹⁰. There is no notification of the outcome of this duty assessment which could indicate it was withdrawn or terminated and as such does not support Saha Thai's contention of no dumping for that period.

The available evidence on the public record also shows that there were no duty assessments lodged for the two-year period applying from 19 August 2016 to 18 August 2018 in regard to HSS exported from Thailand. During this period exports by Saha Thai were subject to the *ad valorem* rate of 5.7% determined in the original investigation, Investigation 254 (INV 254), applicable up to 28 June 2018 when a floor price was set.

During this period Thai exports to Australia approximated [REDACTED] tonnes, of which Austube Mills estimates Saha Thai's exports to be some [REDACTED] tonnes ([REDACTED]% of exports from Thailand to Australia)¹¹. (*commercially sensitive market information*)

Austube Mills has calculated an estimated value of the interim dumping duties payable on those exports at close to [REDACTED] dollars. Based on an export volume of [REDACTED] tonnes and an average export price of AUD [REDACTED] per tonne (being the average [REDACTED]¹² over the period [REDACTED]). (*commercially sensitive market information*)

This is a substantial amount of duties for which no applications for duty assessments were made with the only reasonable explanation being that the exported goods were at dumped prices with no prospect of a refund of the interim dumping duties paid.

4. Export orientation of Thai exporters

The export focus of Thai producers of HSS was noted in Austube Mills application for the continuation of the measures.

A stated market goal of Thai Premium Pipe is "to supply steel pipe world wide.

In its 2016 annual report, Pacific Pipe, a producer of CSWP in Thailand, states that its company plans to expand its coverage to all over the world.

Saha Thai accounted for the overwhelming majority of exports to the USA in the latest US Review.

the U.S. market was the largest export market for CWP from Thailand during each year in the current period of review and accounted for 56.9 percent of exports from Thailand in 2016...¹³

All three Thai exporters have fully participated in the current inquiry, CON 532, demonstrating a continued interest in Australia as an export market.

¹⁰ Refer to Anti-Dumping Commission Monthly Status Reports

¹¹ Confidential Attachment 2 "Dumping Tab" to Application for Continuation of the Measures by Austube Mills.

¹² Confidential Attachment 6 to Application for Continuation of the Measures by Austube Mills.

¹³ EPR CON 532/002, Application, p.13

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5. Excess Thai capacity that would be directed to Australia and actions by other countries

Austube Mills in its application pointed to the overcapacity in world steel markets and actions by other countries that would make Australia an increasingly attractive destination for Thai HSS if the measures were not to be continued.

Overcapacity in world steel markets has triggered an unprecedented number of global trade defence mechanisms that include the United States' (US) Section 232 tariffs and the European Union's (EU) steel safeguard actions. These actions are affecting export markets for all countries including Thailand. It is expected that displaced export volumes will increasingly be diverted to open markets, making Australia an attractive destination for excess capacity of HSS, particularly in the absence of continued effective measures.

The Commission's Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission (2016 Steel Report) found that ongoing excess capacity is a significant challenge for the global steel industry, particularly in Asia.

The ongoing overcapacity in Steel markets was also noted by the EU in its notification to the WTO of provisional safeguard measures on steel products.¹⁴

The OECD Steel Committee at its 86th session in March 2019 provided the following insight in relation to global steel capacity:

The gap between steel capacity and production is therefore expected to remain high, at 425.5 million metric tons in 2018. However, many new investments continue to take place around the world and others are in the planning stages, including in regions where excess capacity is most prevalent. Should these projects be realised, global steelmaking capacity could increase by 4-5% between 2019 and 2021, in the absence of closures¹⁵.

Austube Mills also noted in its application actions taken by other countries that affected the export focus of the Thai manufacturers with the largest export market for Thailand, the United States (US), being significantly affected.

The effect of the US Section 232 action reducing Thai imports of pipe and tube into the USA has been profound as highlighted by the US Steel Import Monitoring website SIMA. An extract from SIMA below shows that Thai exports of standard carbon and alloy pipe products have fallen from a high of 137,000 tonnes in CY 2017 to just 462 tonnes for the first 5 months of 2019.¹⁶

In addition, the European Union (EU), applied safeguard measures on 28 product categories that includes HSS, which will remain in place until 16 July 2021. The EU safeguard measures impose a 25% tariff once the country-specific quotas for the defined six-monthly periods have been reached. In imposing the measures, the EU noted that due to the US Section 232 action and plans by US producers to expand production that exporting producers will have to look for alternative markets and the EU market is then, in view of its size, an ideal substitute market. Whilst Thailand

¹⁴ EPR CON 532/002, Application, p.7

¹⁵ EPR CON 532/002, Application, p.8

¹⁶ EPR CON 532/002, Application, p.9

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is not a major exporter of HSS to the EU the safeguard action nevertheless prevents the Thai exporters from shifting their displaced tonnes from the US Section 232 action into Europe, conceivably, in the absence of measures, Australia (with its established networks between Thai exporters and Australian importers), is credibly more attractive market for surplus Thai production of the goods.¹⁷

Austube Mills restates its contention in the application that:

as a result of continuing global overcapacity and the broad defensive actions of the US and EU, it is expected that Thailand would continue to export HSS to Australia, and likely at increased volumes if the measures were allowed to expire.

In the time since the initiation of the inquiry the effects of the COVID 19 virus has added to further pressures on overcapacity and trade defensive actions. As global steel demand is forecast to be heavily reduced by COVID-19 the global steel overcapacity is likely to become increasingly problematic as global markets will be under significant pressure. A recent publication by Platts states:

While China was the first country to see the effects of the pandemic in January, its first-quarter 2020 crude steel production rose 1.2% year on year to 234.45 million mt, according to data released by the country's National Bureau of Statistics April 17. The increase in steel production combined with battered end-user demand took China's finished and semi-finished steel inventories to around 100 million mt by the end of March, three times as high as at the end of March 2019, Platts analysis show.

...

"I think other countries have been and will continue to look to their own trade remedies to make sure they don't become the dumping ground for this glut of steel inventory," Gibson said.¹⁸

Thailand's steel sector in particular has significant concerns that large volumes of Chinese steel will be exported to Thailand at dumped prices:

Thailand's steel industry, already battling unstable prices, is edgy as competitors from China are all set to be back in business with full government support.

...

The steel industry has reportedly been worried about the risk of oversupply and shrinking demand in China when the logistics system returns to normal. Chinese steelmakers will definitely find a way to release huge stocks of products as exports to Thailand, experts believe. The Chinese government has issued urgent measures to support exports by announcing an additional 3 per cent tax compensation (from 10 to 13 per cent), effective from March 20.

...

¹⁷ EPR CON 532/ 002, Application, p.10

¹⁸ <https://www.spglobal.com/platts/en/market-insights/podcasts/focus/051320-jim-rogers-commodities-outlook>

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*secretary-general of the Federation of Thai Industries' iron and steel industry club, said that **the Thai private sector wants the government to find a way to prevent imports that will spill into the future with increasing volumes and a very low price.** Importers say the price of steel from China has been continuously offered **at a very low price since they could not export to the US and the EU.** This is the reason why they dump their stocks in Thailand and other Asean countries.¹⁹ (emphasis added)*

With the Thai producers under significant import price pressure domestically, access to export markets having no trade measures in place will become increasingly important and heavily contested – this includes Australia if measures on Thai HSS were to be discontinued.

Austube Mills notes from the Saha Thai submission that it has exclusively supplied a single customer in Australia over the years, with no evidence of any strategy to expand its export volumes to Australia²⁰.

Austube Mills further notes that the single Australian customer referred to, ■■■, also imports HSS from ■■■ exporters, who, importantly, will most likely continue to be subject to anti-dumping measures after REV 529 is finalised.

Should the measures not be continued for Saha Thai there would be an incentive for ■■■ to move import volumes from the other exporters that were subject to measures to Saha Thai. (*commercially sensitive market information*)

In addition, the available evidence does not support Saha Thai's contention that it would not seek to increase volumes to Australia if the measures were to expire given that it is an export focused manufacturer and has had its largest export market effectively closed to it as noted above.

6. Likelihood of dumping continuing or recurring

Austube Mills submits that the available evidence supports the likelihood that dumping of HSS from Thailand will continue or recur if the measures were to expire.

HSS is a price sensitive product, as Austube Mills noted in its application with pricing in the Australian market strongly influenced by export prices from countries subject to the measures. The exporters' export price to Australia is set by negotiations with the importers, the importers themselves are pricing in competition with other importers. The Australian HSS market shows significant price sensitivity and price is the major criteria in customers' purchasing decisions, product and brand differentiation is minimal as long as the products sold satisfy the Standards' (i.e. AS/NZS 1163) chemical, mechanical, quality and tolerance criteria²¹. Importantly, exporters will lower their prices to seek additional volumes²².

The past behaviour of Thai exporters in the Australian (and other) markets is relevant as to whether the Thai exports will continue or resume dumping.

¹⁹ <https://www.nationthailand.com/business/30386344>

²⁰ EPR CON 532/017, p.2

²¹ EPR CON 532/002, Application pps 21-22.

²² EPR CON 532/002, Application pps 23

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In its application Austube Mills provided details of annual Thai exports to Australia since July 2010²³. At the verification visit Austube Mills provided further details on the changing volumes of Thai exports in the Australian market²⁴. The table from that presentation and further notes are below.

Confidential Table Thai Volumes and Market Share

The table shows ■ of export volumes and market share for Thai HSS from the end of the 2011/12 year to 2012/13. The 2011/12 year saw a constraint on Thai export volumes when Investigation No. 177 (INV 177) was initiated in September 2011 and there was the possibility of anti-dumping measures being imposed, to 7 June 2012 when INV 177 was terminated in respect of exports of HSS from Thailand and volumes subsequently surged.

There was another large change in Thai export volumes from 2014/15 to 2015/16 when Thai export volumes dropped by over ■ tonnes (■%) and its market share from ■% to ■%. INV 254 was initiated in July 2014 with measures being imposed from August 2015. (*commercially sensitive market information*)

Thai export volumes declined following the imposition of the measures but have notably showed an increased presence in the Australian market since 2017/18.

Austube Mills submits that it is the anti-dumping measures in place that have constrained the Thai exporters from decreasing their export prices to increase their export volumes to Australia.

Austube Mills noted in its application that the US and Canada have measures in place on exports of pipe and tube products from Thailand, which include goods that are similar to those to which the Australian measures apply.

The two most recent US Administrative Reviews of the pipe and tube measures found that Thai exporters had continued dumping with margins, for the period 1 March 2016 to 28 February 2017, for Saha Thai 28.00%, Pacific Pipe 30.61% and Thai Premium Pipe 30.98%. The Administrative Review for the period 1 March 2017 to 28 February 2018 also found that the Thai exporters were still dumping with margins for Saha Thai 5.32% and all other exporters 5.32%.²⁵

The US in its recent expiry review, concluded in January 2018, found that revocation of the antidumping duty would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States.²⁶

Canada imposed anti-dumping measures applicable to pipe products for all exporters from Thailand in December 2012 with dumping margins determined for Saha Thai at 3.8%, Pacific Pipe 5.4% and all other exporters 54.2% and continued the measures for a further five years in May 2018.

²³ Confidential Attachment 3 - Australian Market, to the Application.

²⁴ Verification Market Material Injury, p.19

²⁵ EPR CON 532/002, Application, p.11

²⁶ EPR CON 532/002, Application, p.11

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Austube Mills submits that the evidence demonstrates that it is likely that Thai exporters will seek to increase their export volumes to Australia given the constraints in place in other export markets, noted above, with such increases being driven by lower export prices to secure the increased volumes.

Austube Mills further submits that it is likely that the lower export prices will be at dumped export prices and that the Commissioner should be satisfied that this evidence supports the conclusion that it is likely that dumping will continue or recur if the anti-dumping measures were to expire.

C. Material injury, or likelihood of material injury, by dumped exports continuing or recurring

1. Summary

Austube Mills restates its statement in the application that:

in the event the measures on HSS exported from Thailand are permitted to expire there exists a very real likelihood that exporters and importers will lower prices in order to increase export volumes to Australia, resulting in a recurrence or continuation of dumping and associated material injury to the Australian industry in terms of lost revenue, volume and profitability²⁷.

2. Evidence to support Austube Mills contentions

Austube Mills draws the Commission's attention to evidence and information contained in the application at pages 16 to 26 regarding material injury caused by dumped exports and the information in Confidential Attachments to the application:

- Confidential Attachment 3 (Australian HSS Market);
- Confidential Attachment 5 (Injury); and
- Confidential Attachment 6 (IPP).

Austube Mills further draws the Commission's attention to updated evidence and information provided at the verification visit in this regard:

- Verification Market Material Injury Presentation;
- Confidential Attachment Import Offers TH;
- Confidential Attachment injury Calculations Sep 19;
- Confidential Attachment IPP to Sep 19; and
- Confidential Attachment Australian Market to Sep 19

3. Causal link between dumped imports and material injury

As submitted in the application, discussed with the Commission at the verification visit and indicated in the original Investigation 254, Austube Mills continues to negotiate its prices monthly with customers relative to the market

²⁷ EPR CON 532/002 Application, p.16

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movements of import offers, which include Thai offers. Therefore, dumped prices from Thailand directly contribute to price suppression and/or depression, lost revenues, volumes and profitability.

Austube Mills has provided evidence on the link between import prices, its import parity pricing mechanism and the effect that changes in import prices have on Austube Mills' economic performance.

Austube Mills has provided specific evidence demonstrating the causal link between the likely dumped export prices of Thai exports of HSS and the resulting material injury that would result if the measures were allowed to expire.

The materiality of the injury caused by the dumped exports was detailed in the *Verification Market Material Injury Presentation* (at page 29). The causal link between the dumped exports and the material injury was detailed in pages 23 to 28 with supporting evidence and information provided in the Confidential Attachments noted above.

Unsuppressed Selling Price (USP) and Non-Injurious Price (NIP)

Austube Mills agrees with Orrcon Manufacturing Pty Limited's submission to REV 529 that the most appropriate USP applicable to measures applying to Thailand is:

that based on Australian industry's CTM&S plus an amount of profit realised during a period unaffected by dumping²⁸.

Austube Mills submits that the proposed USP and derived NIP should be used in the calculation of material injury and determination of causal link in the assessment by the Commission.

Austube Mills further submits that the Commissioner should be satisfied that it is likely that material injury will continue or recur due to dumped exports from Thailand if the anti-dumping measures were to expire.

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

²⁸ EPR 529/005, p.3