

9 June 2020

Ms Kathryn Marnell
Assistant Director, Investigations 1
Anti-Dumping Commission
GPO Box 1632
Melbourne Victoria 3001

Public File

Dear Ms Marnell,

Continuation Inquiry No. 532 – Hollow Structural Sections exported from the Kingdom of Thailand

1. Introduction

Orrcon Manufacturing Pty Ltd (“Orrcon”) is a manufacturer and member of the Australian industry producing hollow structural sections (“HSS”) in Australia. Orrcon was the applicant company that requested the continuation of measures applicable to HSS exported from the Kingdom of Thailand (“Thailand”) – refer ADN No. 2019/141.

Orrcon refers to the recently published Statement of Essential Facts (“SEF”), and addresses why the Anti-Dumping Commission (“the Commission”) should be satisfied that the expiration of the anti-dumping measures on 19 August 2020 would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

2. Preliminary SEF Findings

Section 1.3.5 of the SEF states:

“The Commissioner’s preliminary finding is that, due to the negative dumping margins, prevailing economic conditions in Thailand, and relative price competition in the Australian market, he is not satisfied that future exports of HSS from Thailand are likely to be at dumped prices.

Due to the apparent low level of influence of HSS exported from Thailand in the Australian market and its negligible impact on the Australian industry, the Commissioner is not satisfied that it is likely that the expiry of the anti-dumping measures would lead, or would be likely to lead to, a continuation of, or a recurrence of, the injury that the anti-dumping measure is intended to prevent.”

Conversely, Orrcon contends and will further demonstrate below, that should the anti-dumping measures be allowed to expire, there exists a very strong likelihood that the Australian industry manufacturing like goods would experience a recurrence of dumping and material injury.

3. Global Trading Environment, Excess Capacity, & Diversion

For the purposes of assessing whether the expiration of the measures would lead, or would likely lead, to the continuation or recurrence of dumping, a relevant consideration is whether exports are likely to continue or resume based on the world market for the goods.² Orrcon submits that global steel excess capacity, including HSS excess capacity, represents a material consideration in whether the measures should be allowed to expire.

¹ SEF 532, p.7.

² Anti-Dumping and Subsidy Manual, November 2018, p.176.

An analysis of excess capacity in the subject goods industry requires consideration of both overcapacity in the industry specifically, and the steel industry more generally. HSS is produced from HRC substrate – a product of primary steel production. Overcapacity in such primary steel production affects the volume of production, price, profitability, and export orientation of the subject goods.

The Commission's Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission³ found that ongoing excess capacity is a significant challenge for the global steel industry, particularly in Asia. In relevant part:

"Excess capacity – a problem that afflicts the steel industry – is a significant issue for the sector. The growing gap between global steelmaking capacity and demand has led to deterioration in the financial situation of steelmakers, and raised concerns about the longer-term economic viability and efficiency of the industry".

The tipping point in global steel excess capacity was recognised by the Organisation of Economic Cooperation and Development ("OECD") in April 2016 when it took the unprecedented step of convening a high-level meeting in Brussels attempting to address the problem. It noted that excess capacity is the biggest challenge facing the steel industry:

"Excess steelmaking capacity – a global challenge that continues to grow – is creating significant difficulties for steel producers in advanced, emerging and developing economies alike. Low steel prices, weak profitability, trade disturbances in some jurisdictions, and an escalation of trade actions against steel imports are some of the immediate impacts of excess capacity that are being felt by steel manufacturers around the world. These effects are pronounced due to the weakness of global steel markets and sluggish growth prospects. Alleviating excess capacity would lead to improved and more stable business conditions, and allow the industry to face a number of long-term challenges more effectively".⁴

At the March 2018 OECD Steel Committee meeting, it was further noted that:

"New investment projects continue to take place around the world and global steelmaking capacity could increase by 2.0% between 2018 and 2020 in the absence of any further closures. Global excess capacity is expected to continue to be a major challenge for the global steel industry—calling for urgent, accelerated actions to reduce it. Economies at the heart of the increase in capacity have an important role in this regard, and those increasing capacity should do so strictly in line with demand to avoid an exacerbation of the problem."⁵

As recently as March 2019, the OECD Steel Committee again "...expressed concerns about the low growth prospects for the global economy and global steel markets, noting that decelerating demand growth and virtually unchanged steelmaking capacity result in a persistence of severe excess capacity in the steel sector."⁶

Even more contemporary, on 25 November 2019 the South East Asian Iron and Steel Institute ("SEAISI") highlighted that the ASEAN region is slated to significantly increase its overall steelmaking capacity.⁷ SEAISI forecasts an alarming increase across the region from the current existing capacity of [XXX] million metric tonnes, to [XXX] million metric tonnes.⁸ This will be driven primarily by [XXX]⁹, the steel industry of which is not impartial to ignoring the economic and fiscal impacts of unmitigated steel manufacture in the face of stagnant global demand.

³ <https://www.industry.gov.au/data-and-publications/analysis-of-steel-and-aluminium-markets>

⁴ OECD, High-Level Meeting, Excess Capacity and Structural Adjustment in the Steel Sector: Background Note No. 2: Capacity Developments in the World Steel Industry" (April 18, 2016) at p.2.

⁵ OECD, "Statement by Lieven Top, Chair of the OECD Steel Committee", 84th Session of the OECD Steel Committee, (5-6 March 2018).

⁶ OECD, "Statement by Mr Jai Motwane, Vice Chairman of the OECD Steel Committee", 86th Session of the OECD Steel Committee, (25-26 March 2019).

⁷ Confidential Attachment 42: South East Asian Iron & Steel Institute, "Update on ASEAN Steel Industry Development Scenario", (25 November 2019).

⁸ Ibid.

⁹ Ibid.

Orrcon contends that overcapacity in the global steel market generally has an impact on the subject goods specifically. Such global excess capacity leads to excess capacity and low prices for HSS. It is highly likely then that this global oversupply translates to a displacement of export volumes to open markets, making Australia an attractive destination for Thailand-origin dumped and injurious excess HSS.

4. The Economic Outlook for Steel

In further considering the world market for the goods, Orrcon contends that domestic and international market characteristics are factors that should be considered vis-à-vis continuation of the HSS measures against Thailand exporters.

Irrespective of relatively recent overall steel market improvements (during late 2016 and 2017), the steel industry remains vulnerable, and several factors could reverse these earlier gains.

Global economic expansion lost momentum during 2018, and according to the OECD “...global GDP growth forecasts were revised downward, to 3.3% for 2019 and 3.4% for 2020.”¹⁰ At the most recent meeting of the OECD Steel Committee in March 2019, the Steel Committee “...expressed concerns about the low growth prospects for the global economy and global steel markets...”¹¹ They also reported that:

“The second half of 2018 saw a marked decline in steel market conditions, with steel prices erasing their earlier gains to fall back to pre-2018 levels. Global crude steel production increased by 4.8% in 2018, while steel consumption growth has been decelerating in most of the large steel-consuming economies. Risks to the steel sector outlook are high, given the pronounced weakening of the global economy, trade frictions, and persisting structural imbalances.”¹²

Orrcon also notes that:

- Commodity prices have been volatile, in particular non-oil commodities such as steel;¹³
- The UK’s economy has been weakened since the referendum on Brexit, and with no final resolution to date (save the 11-month transition currently in place); this has affected economies globally;¹⁴
- The US-China trade war has also severely affected their trading relationship and it is projected that any additional “US-China trade shocks would have global effects, especially if uncertainty rose further.”¹⁵
- As recently as April 22, 2020, the Australian Steel Institute (“ASI”) highlighted as follows, in relation to anticipated Novel Coronavirus (“COVID-19”) impacts:

“(ASI) members are reporting a contraction in future construction activity, likely to cause a significant downturn in this critical sector of the economy. The underlying causes of this downturn are deteriorating liquidity and business confidence, both directly related to COVID-19 impacts.

International stockpiles of steel have grown significantly during the period of disruption caused by coronavirus lockdowns and have now reached 10-year highs in China. At the same time, the Chinese Government has increased export incentives by raising the tax rebate available to exporters. This combination of conditions mean that the Australian steel industry is particularly vulnerable to injury caused

¹⁰ OECD, “Statement by Mr Jai Motwane, Vice Chairman of the OECD Steel Committee”, 86th Session of the OECD Steel Committee, (March 25-16, 2019).

¹¹ Ibid.

¹² Ibid.

¹³ OECD, “Global Economic Outlook”, 86th Session of the OECD Steel Committee (March 25, 2019) at slide 10.

¹⁴ Ibid, slide 12.

¹⁵ Ibid, slide 15.

by dumped steel....”¹⁶

The pessimistic economic outlook for steel, including that of HSS, should suggest to the Commission that Australia is not immune to the wide-reaching effects of the current and expected future downturn. Applied here, Orrcon asserts that a recurrence of dumping and subsequent injury is highly likely from Thailand exports of HSS given their already established patterns of trade (and those previous, determined as injurious), and well-maintained distribution links.

5. Preliminary Dumping Margins & the Unsuppressed Selling Price

The Commission has determined preliminary negative dumping margins for the three Thailand exporters verified, and all others.¹⁷ Firstly, Orrcon refers to and concurs with the representations made by the Australian industry member ‘Austube Mills’ in its submission addressing the likely recurrence of dumping by Thailand HSS exporters in the absence of measures.

Secondly, in its determination of a reasonable amount for profit in the Unsuppressed Selling price (“USP”) calculation, the Commission notes at section 6.7.2 of the SEF¹⁸ that:

“The Commission has therefore had regard to the methods detailed in the Manual for calculating a reasonable amount for profit. The Commission considers that the option to use appropriate profit surveys provides the most relevant method to estimate profit for the Australian industry. The Commission has used the Australian industry’s price lists and target revenue figures (identified from management and business reports) as a proxy profit survey, as these figures take into account market and industry conditions in the inquiry period.”

Orrcon requests that the Commission ensure that the price lists and target revenue figures referenced are those that reflect a market unaffected by dumping, either by Thailand or by those countries currently subject to HSS Review Inquiry No. 529.

6. Measures Imposed by Other Countries

United States

At section 7.4.8 of the SEF, the Commission refers to both Canada and the U.S. as having anti-dumping measures imposed on certain circular welded steel, and notes that:

*“A current review of the USA measures made a preliminary finding on 4 February 2020 that dumping margins are at zero per cent on circular welded carbon steel pipe and tube exported to the USA from Thailand”.*¹⁹

The specific measures referenced are those regarding Welded Carbon Steel Pipe and Tube (“CWP”) from Thailand²⁰, an affirmative determination of which was made by the U.S. International Trade Commission (“ITC”) on January 18, 2018 to continue the measures (with effect from February 7, 2018).

¹⁶ Australian Steel Institute, “Trade-Related Issues Caused by COVID-19”, accessed on 22 April 2020 at <https://www.steel.org.au/advocacy/anti-dumping/trade-related-issues-caused-by-covid-19/>.

¹⁷ SEF 532, p.6; Pacific Pipe Co., Ltd at negative 4.3%, Saha Thai Steel Pipe Public Company Limited at negative 13.1%, Thai Premium Pipe Co., Ltd at negative 4.5%, and Uncooperative and all other exporters at negative 4.3%.

¹⁸ SEF 532, p.42.

¹⁹ Ibid, p.52.

²⁰ U.S. Department of Commerce Case No. A-549-502. U.S. International Trade Commission No. 731-TA-252.

In terms of **volume effects** of Thai exports of CWP, the ITC found that:

“...in particular the substantial presence of subject imports in the U.S. market even under the discipline of the orders; the size of the industries in the subject countries, their excess capacity, and their export orientation; the attractiveness of the U.S. market; and restrictions on the subject countries’ exports in various third-country markets, we find that subject producers would likely increase their exports to the United States if the countervailing and antidumping duty orders were to be revoked. Accordingly, we conclude that the volume of subject imports would likely be significant, both in absolute terms and relative to U.S. consumption, should the orders be revoked.”²¹

In terms of **price effects** of Thai exports of CWP, the ITC found that:

“...subject imports would likely undersell domestically produced CWP, as they did during the original investigations. Consequently, there would likely be significant underselling by subject imports. The likely significant volume of subject imports, which would undersell the domestic like product, would likely force the domestic industry to lower prices or lose sales. In light of these considerations, we conclude that subject imports would likely have significant depressing or suppressing effects on prices for the domestic like product upon revocation of the orders.”²²

In terms of the **market effects** of Thai exports of CWP, the ITC found that:

“...given the high degree of substitutability of CWP from different sources, the fact that the domestic industry is currently the largest supplier to the U.S. market, and the increase in cumulated subject imports’ market share since the last five-year reviews despite the restraining effects of the orders, any increase in cumulated subject import volume and market penetration is likely to come, at least in substantial proportion, at the expense of the domestic industry. In light of these considerations, we find that the effects we have attributed to the subject imports are distinguishable from any effects likely from non-subject imports in the event of revocation.”²³

Whilst the SEF highlights a preliminary review finding of no dumping by Thailand exporters of CWP to the U.S. as at February 4, 2020 (similar to the preliminary margins determined in this inquiry), Orrcon respectfully submits, irrespective of this, that the above U.S. determination that:

- *“...subject producers would likely increase their exports to the United States if the countervailing and antidumping duty orders were to be revoked.”; and*
- *“...subject imports would likely have significant depressing or suppressing effects on prices for the domestic like product upon revocation of the orders.”*

is indicative of the likely future outcome should the HSS measures be allowed to expire on Thailand exports to Australia.

Further, the SEF states that the total volume of all Thailand HSS exports to all destinations has been relatively stable since 2013, and that whilst possible, an increase in such does not appear likely.²⁴ Orrcon respectfully submits that despite a short-term forward view that HSS volumes will remain in-country, this does not detract from

²¹ Ibid; Final Determination.

²² Ibid.

²³ Ibid.

²⁴ SEF 532, p.48, 51.

a medium/long term consideration of whether dumping and subsequent material injury will transpire over a future five-year period in the absence of measures.

Indeed, the U.S. ITC established the above-noted affirmative finding in the presence of fluctuating Thai-origin CWP exports:

“...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;...exports of CWP from Thailand globally decreased from 160,583 short tons in 2012 to 114,414 short tons in 2016; and that exports of CWP from Thailand to the U.S. market decreased from 109,632 short tons in 2012 to 39,012 short tons in 2013 then increased steadily to 65,054 short tons in 2016.”²⁵

Canada

No mention is made in the SEF of the May 2018 Canadian *Expiry Review Determination regarding the Dumping of Certain Carbon Steel Welded Pipe from Chinese Taipei, India, Oman, The Republic of Korea, Thailand, and the United Arab Emirates, and the Subsidizing of Certain Carbon Steel Welded Pipe from India.*²⁶ The Canada Border Services Agency concluded that the anti-dumping and countervailing duties should be continued, which was then ratified by the Canadian International Trade Tribunal.

Orrcon submits that the findings of this investigation are relevant to the current inquiry, and highlights the pertinent facts of the determination:

- Thailand has a propensity to export various steel pipe products to certain countries, notwithstanding trade measures against them; indicating that producers can withstand duties and/or change production when necessary;²⁷
- Numerous measures imposed by other jurisdictions (noted as the U.S., Brazil, the European Union, and Turkey) demonstrates an overarching propensity of Thailand pipe & tube producers to dump;²⁸
- Volume diversion into the Canadian market is likely on expiration (with specific reference made to the U.S. measures);²⁹ and
- Domestic market conditions in Thailand are such that, whilst anti-dumping measures were in place on the then main protagonist of dumped and injurious pipe & tube imports into Thailand (namely China), over the medium term these have been ineffective, and Thai producers have looked to export markets to displace their own excess capacity vis-à-vis the continued presence of equivalent imports in the Thai market.³⁰

In relation to the last point above, at section 7.4.4 of the SEF³¹ the Commission notes that imports of welded pipe and tube from China have had a comparatively lesser presence in the Thailand domestic market since 2016, and that Vietnam is now the largest source.

Orrcon submits, irrespective of the origin of HSS exports to Thailand, that the Thailand market will continue to suffer from the presence of dumped and injurious HSS imports, the response of which by local HSS producers will be to seek low priced export destinations for their surplus production. In the absence of the continuation of measures, Australia will be one such market.

²⁵ U.S. International Trade Commission No. 731-TA-252.

²⁶ Canada Border Services Agency, *The Dumping of Certain Carbon Steel Welded Pipe from Chinese Taipei, India, Oman, The Republic of Korea, Thailand, and the United Arab Emirates, and the Subsidizing of Certain Carbon Steel Welded Pipe from India*, Statement of Reason, May 2018.

²⁷ *Ibid.*, p.39.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ SEF 532, p.48.

7. Conclusion and Recommendation

In consideration of the above, Orrcon requests the Commissioner to recommend to the Minister that the anti-dumping measures on HSS exported from Thailand not be allowed to expire on 19 August 2020, and that they be continued for a further five-year period. The continuation of the anti-dumping measures against all exporters from Thailand will ensure that the Australian industry does not again experience a recurrence of the material injury that the measures were intended to prevent.

If you have any questions concerning this submission, please do not hesitate to contact me.

Yours faithfully,


Manager – Trade Measures