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09 June 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 in response to Statement of Essential Facts No. 532 (**SEF 532**).

SEF 532 reports that based on the Commission's preliminary findings of negative dumping margins, their assessment of the prevailing economic conditions in Thailand, and their assessment of relative price competition in the Australian market that the Commissioner is not satisfied that future exports of HSS from Thailand are likely to be at dumped prices.

SEF 532 further states that:

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, of the injury that the anti-dumping measure is intended to prevent¹

Austube Mills' submission seeks to demonstrate that the primary reason that HSS exported from Thailand has had a low level of influence in the Australian market and a reduced impact on the Australian industry is due to the fact that the measures have had the intended effect of preventing dumping.

Austube Mills seeks to further demonstrate that without effective dumping measures in place there are significant pressures within the Thai Hollow Structural Section market that would make it very likely that without measures Thai exporters would likely recommence dumping and cause material injury to the Australian industry.

Austube Mills submits that the Commission's preliminary recommendation to discontinue the measures is based on assessments of data at too broad a level that this has distorted the Commission's understanding of the evidence that is available to it.

¹ SEF 532, p.54

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A. Negative Dumping Margins

The Commission reports that the preliminary negative dumping margins are a reason to discontinue the measures.

Austube Mills seeks to highlight that the preliminary negative dumping margins found during the inquiry period should be one of the actual reasons to retain the measures, as they have been effective in preventing dumping and injury.

Evidence that supports that the measures have been effective includes:

1. **There has been a reduction in the number of Thai HSS exporters competing in the Australian market whilst the measures have been in effect.**

These include the following known companies:

- I. Samchai Steel Industries Public Company Limited (Samchai) – a Thai exporter of HSS that has been found to be dumping into the Australian market on multiple occasions, (Investigation 177 (DM² =13.1%) and in investigation 254 (DM=19.8%)) is not known to have re-entered the market whilst measures have been in effect.
- II. Pacific Pipe Public Company Limited (Pacific Pipe) – a cooperating exporter in this Continuation Inquiry that was found to be dumping in Investigation 254 with a dumping margin of 15.1% and again in Review 445 with a dumping margin of 5.6%, did not export during the Continuation inquiry period. Despite not exporting in the period Oct 18 to Sep 19 they have indicated their intent to re-enter the Australian market.
- III. Atlantic Pipe Company Limited (Atlantic Pipe) – a non co-operating exporter in the original investigation sought an Accelerated Review to be able to enter the Australian market but then withdrew its application.

These are examples of companies that are willing and capable of exporting to the Australian market but were only able to be competitive by dumping. It is likely that these companies, and the others who were exporting to Australia before the measures were imposed, would likely re-enter the market at dumped prices if the measures were not to be continued.

2. A reduction in the total tonnes of Thai HSS exported to Australia.

As a direct result of the measures being imposed the total volume of tonnes of Thai HSS exported to Australia has fallen by 44%, demonstrating that when dumping behaviour is constrained by measures that are having their intended effect, dumping and the injury caused by dumping is reduced.

² DM = Dumping Margin)

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- In 2014 – Thai government exports statistics show that HSS exports to Australia were approximately 39,000 tonnes. Immediately after the imposition of measures Thai exports of HSS fell by approximately 50% to approximately 19,000 tonnes.
- In 2019 – Thai export statistics show that exports to Australia were approximately 22,000 tonnes, a slight increase in line with the growth in the overall Australian market but still 43% below the volumes when measures were not in place.

The substantial reduction in volumes is also observed in the graph below in SEF 532 on page 46.

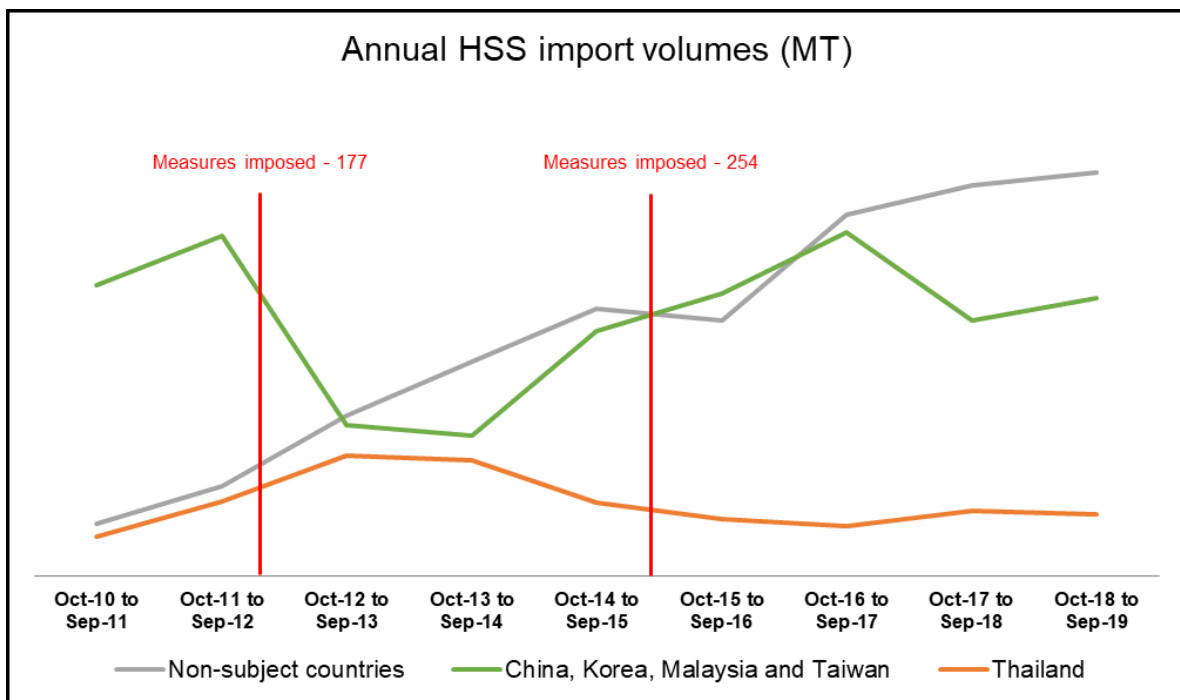


Figure 12: Import volumes of HSS to Australia

INV 254 was initiated on 21 July 2014 with the earliest date for a preliminary affirmative determination (PAD) and the imposition of securities being from 19 September 2014. The graph above shows a substantial decline in import volumes from Thailand from September 2014, the time from when securities could be imposed and from when, where such securities could be imposed, they could likely be converted to interim dumping duties.

Austube Mills submits that the decline in volumes evidences exports and dumping behaviour being constrained by the likelihood of the imposition of measures.

3. A reduction in the market share of Thai HSS exports to Australia.

Following the initiation of the original investigation Thai exports of HSS to Australia have lost approximately 50% of their market share. The Commission’s Figure 7³ shows that Thai exporters market share in October-2013 to

³ SEF p 27

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September 2014, the period before measures were imposed, was approximately 9% and that this has fallen to just 4% during the current inquiry period, October 2018 to September 2019.

These periods provide insights in Thai export behaviour. In the period October 2013 to September 2014 Thai exporters were behaving without the constraint of effective measures and represented nearly 10% of the market.

The period from October 2018 to September 2019 is the inquiry period for Continuation Inquiry 532 and was predictable to Thai exporters as the Commission typically chooses the period 9-12 months prior to the expiration of the measures. It is therefore not surprising that the Thai exporters took actions to ensure that they were not dumping during this period, but in doing so their impact on the Australian market is reduced. Given the highly attractive nature of an Australian HSS market absent any dumping duties as an export destination, these Thai exporters would have been motivated to do whatever is necessary to ensure measures are discontinued.

4. Thai exporters have maintained the distribution links to the Australian market and have actively sought via Reviews and Accelerated Reviews to obtain contemporary dumping margins.

Again, this behaviour indicates that the Australian market is a key market for Thai exporters and that the measures and the level and type of measures are influencing their behaviour.

Austube Mills submits that the measures have largely been effective in preventing dumping and the injury caused by dumping, and that without them Thai exporters would likely recommence dumping. The success of the measures should not be a reason that they are discontinued.

B. The Prevailing Economic Conditions in the Thai Market.

The Commission reports in SEF 532 that their assessment of the prevailing economic conditions of in the Thai market indicates that if the measures are removed it is not likely that the Thai exporters will recommence dumping.

Austube Mills strongly disagrees with the Commission's initial assessment noting that the tariff code data that the Commission has used as a proxy for its assessment for HSS has been conducted at too broad a level and include products that are clearly not the goods.

Austube Mills seeks to demonstrate that the impact of Trade Remedies in the United States of America and the Thailand domestic market for HSS are indicators that without effective measures that Thai exporters would likely recommence dumping.

1. Impact of Trade Remedies in the United States of America⁴ and the Thailand domestic market for HSS.

Australian Industry members stated in their applications that Thai producers would have excess capacity as a result of various global trade actions including the US section 232 trade remedies and this is acknowledged in the SEF.⁵

⁴ SEF p 47 section 7.4.3

⁵ SEF ibid

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The Australian industry considered that HSS exporters from Thailand would have excess capacity as a result of the section 232 trade remedies and seek alternate exports markets, such that HSS normally exported to the USA would be diverted to Australia.

To assess this claim, the Commission obtained welded pipe and tube import and export statistics prior to and following the imposition of measures at the four digit tariff code level, ie (7306).

Unfortunately, by examining data at only the four digit tariff code level the Commission's assessment for both the impact of Trade Remedies to the US and the Thai domestic market is significantly impaired due to the inclusion of large volumes of products that are not the goods.

Whilst the Commission acknowledges the limitations of the broad data set,

The data available to the Commission is limited to that for Harmonised System (HS) Code 7306 - Tubes, pipes and hollow profiles. Although welded pipe and tube is a broader category than just HSS,

it dismisses these limitations stating that

the volumes of HSS actually exported and the volume of "welded pipe and tube" exported to Australia from Thailand are sufficiently similar to enable the Commission to consider this category of goods to be a relevant proxy for HSS generally.

Austube Mills is unsure how the Commission is able to claim the two data sets are sufficiently similar when it has only obtained one data set and is unable to satisfy itself the assumption is valid. Given the long history of the Commission in dealing with Hollow Structural sections and in particular tariff classifications of pipe and tube products, it is surprising to Austube Mills that the Commission were not concerned that at the four digit tariff code level, 7306 also contains products such as Line Pipe and Stainless Steel that are not the goods and have very different markets and market drivers.

In order to assist the Commission, Austube Mills has been able to access publicly available Thai trade data to the six digit level (and greater) from the Thai government's website site⁶ which reveals a more accurate understanding of both the impact of Trade Remedies in the United states and the conditions of the Thai domestic market as it relates more closely to HSS.

Austube Mills has used the Thai import and export data at the six digit tariff code level to produce a graph using the two major six digit tariff codes that shows the major trade flows of HSS in and out of Thailand.

The two codes are 730630, (which represents the circular hollow sections) and 730661 (which represents the square and rectangular hollow structural sections) and have excluded the non- relevant Line Pipe and Stainless Steel classifications (730610, 730620, 730640) that were included in the Commission's assessment of HSS at the four digit level (7306).

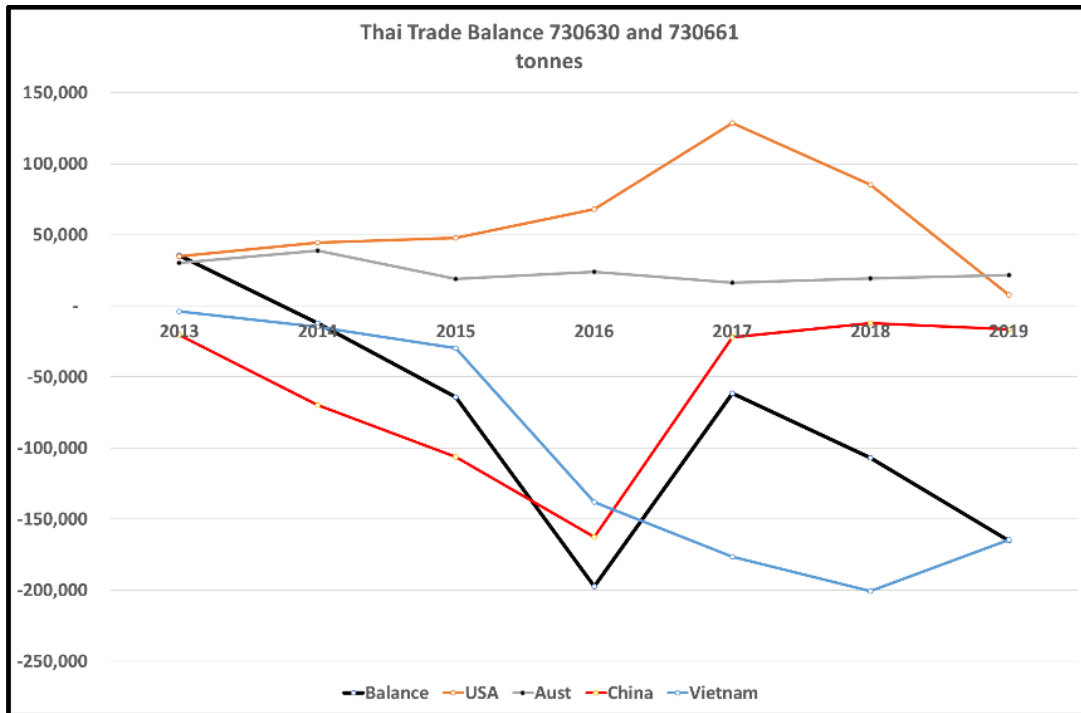
⁶ <http://tradereport.moc.go.th/TradeEng.aspx>

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By representing the trade flows on a single graph, **Graph 1** shown below, Austube Mills believes that it allows the Commission a better understanding of the effect of the impact of the Trade Remedies in the United States and the conditions of the Thai market before and after the Australian measures came into effect.



Graph 1

The black line “Balance” shows that in 2013 Thailand was a net exporter of HSS (approximately 35,000 tonnes) and that the two main export markets were the United States and Australia and that imports volumes from two main import source countries, namely China and Vietnam were relatively low.

From 2014 excess Chinese volumes of steel products began flooding global markets and Thailand was not immune. The graphed data shows that in 2014, despite increased exports to Australia and the US, imports flooded in at a greater rate and Thailand was a net importer of hollow structural sections. It is known that the increased exports of Thai HSS to Australia in 2014 were all found to be dumped as this coincides with the investigation period of Inv 254 of 1 July 2013 to 30 June 2014.

The graph shows that in 2015 the market conditions for Thai HSS became more difficult as volumes of Vietnamese HSS added to the increasing volumes from China. Thai exports into Australia were constrained as a result of the effect of the measures imposed in Inv 254 but continued to increase to the US. By the end of 2015 Thailand’s net imports of HSS sections were over 60,000 tonnes.

Despite Thai exporters of HSS increasing volumes to the US in 2016 by 40% – imports from both China and Vietnam continued to grow rapidly such that the net imports into Thailand grew to negative 200,000 tonnes.

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In 2017 Thai exporters responded by nearly doubling their exports to the US to 130,000 tonnes, an increase of 60,000 tonnes from the previous year. Whilst this significantly reduced the trade imbalance for Thai HSS producers by the end of 2017 it remained at negative 60,000 tonnes.

In March 2018, the Trump administration imposed Section 232 tariffs of 25% on imports of steel products from all countries including Thailand. With trade measures in effect for Thailand's two major export markets for HSS, namely the US and Australia, Thai exports fell significantly and its net trade imbalance of HSS sections began growing again.

By the end of 2019 Thailand's net sales of HSS to the US were minimal and its net trade balance of HSS sections has grown again to negative 165,000 tonnes.

The Commission appropriately needs to consider the period beyond the life of the current measures to determine if it is likely that dumping of Thai exports of HSS into the Australian market will likely recommence.

Unfortunately, the market conditions effecting Thailand are forecast to be even more dire for the foreseeable future. SEF 532 reports that the South East Asia's Iron and Steel Industry (SEISI) is concerned that as a result of Covid 19.

China's increase in steel inventories during the pandemic that have the potential to flood other Association of Southeast Asian Nations member countries and other nations.⁷

Adding to this concern, Austube Mills is aware that China has changed its export tax settings to make it more attractive for Chinese producers of HSS to export to Southeast Asian members including Thailand.

The Commission's consideration of the Thai domestic market refers to a Deloitte report that contains a forecast from the Siam Commercial Bank that public investment GDP growth rate is expected to increase by 0.5% as a result of Covid-19 but that private investment is expected to drop by a much greater 2.1%. The Commission then advises that it has formed the view that it considers the government of Thailand will use investment in infrastructure and developments to stabilise and lift the Thai economy. Whilst Austube Mills agrees that the Thai government may increase public investment in infrastructure to ameliorate some of the impact of Covid-19, there is no assessment by the Commission that the investment will be large enough to compensate for the reduction in private investment.

Absent from the Deloitte report or the Commission's consideration is an analysis of the impact that the Covid-19 will have on the Thai tourism industry, which is estimated to contribute nearly 20% to Thailand's GDP, nearly double that of most other countries. It is widely reported that international travel and tourism has been one of the hardest hit industries by the pandemic and will be one of the last to recover. Without revenue from this sector, the Thai government's ability to fund stimulus packages in the construction industry will be impaired. It will also be difficult to attract Private investment in the construction of facilities that support or host tourist activities.

Whilst the Commission has given some consideration to the impact of Covid-19 on the Thai construction market, noting that SEAIISI had reported that Thailand had no mandatory construction lockdowns, this information is out of date. A recent article in the Nation Thailand titled **Construction sector teeters under Covid-19 fallout** – reports that

⁷ Ibid p50.

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The nationwide lockdown and curfew have hit the construction industry in Thailand very badly, said Angsurat Areekul, president of the Thai Contractors Association.....

Angsurat also said that construction projects in the private sector are expected to drop by around 30 per cent due to the economic slowdown and suspension of many businesses.⁸

Given the pressures in the Thai domestic market from imports of HSS and the loss of their largest single export market, ie the US market, and the impact that Covid-19 will have on the Thai domestic construction market, the facts support the Australian industry's claim that it is highly likely that if the Australian measures were discontinued that Thai exporters would likely recommence dumping that would likely cause material injury.

2. Thai Excess Capacity to supply the Australian market is over 100,000 tonnes.

In section 7.4.5 of SEF 532 the Commission states that

The Commission has analysed the spare capacity available for each of the cooperating exporters in Thailand and found that the total available capacity in the inquiry period of all three exporters was approximately 20 per cent of the overall Australian market.

Based on the Commission's estimation of the Australian market of over 500,000 tonnes this means that just three of the numerous Thai HSS producers capable of exporting to Australia, have the capacity to export approximately 100,000⁹ tonnes. This amount doesn't include the excess capacity of other large known exporters to the Australian market such as Samchai, Atlantic and others.

Rather than appearing to recognise the threat that the excess capacity of Thai HSS producers represents to the Australian industry if the measures, that have been effective in preventing dumping and injury, are discontinued, the Commission appears to play down its significance by stating:

The Commission notes that the sales to Australia made up a minority of all sales by each exporter.

Austube Mills submits that the Thai government trade data statistics at the six digit level shows the rapid growth in export sales by Thai HSS exporters to the US in 2016 and 2017 and demonstrates their ability to export large volumes to Australia in relatively short time frames.

C. Impact of the Measures in the Australian market

The Commission reports its preliminary assessments of the impact of the Thai HSS prices in the Australian market is one of the reasons that the Commission will make the recommendation that the measures not continue.

Austube Mills submits that the Commission has not accounted for four critical influences on the prices of HSS sections; these are

- I. The impact of raw materials on domestic and international prices of HSS
- II. The timing differences between export mills agreeing on prices and despatching exported goods.

⁸ <https://www.nationthailand.com/news/30386255>

⁹ 20% of the Australian market of over 500,000 tonnes.

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- III. The effect of the measures on Thai exporters and the effect of other measures on exporters from Korea, China, Malaysia and Taiwan.
- IV. The different models of HSS exported by different exporters from different countries.

In the SEF 532 section, **7.4.6 Value of the exported Goods**, the Commission reports that it has analysed the value of HSS exported to Australia from Thailand immediately prior to and following the imposition of measures and compared this with the value of HSS exported to Australia from all other countries. The Commission's initial observation include

The Commission has established that, immediately following the imposition of the measures on Thailand, the FOB export price of HSS from Thailand to Australia fell significantly. The Commission notes that this drop in prices was in line with declines in FOB export prices of HSS from other countries that occurred at the same time. Prices of HSS exported to Australia from Thailand recovered the following year.

It is unclear as to the significance of these observations given that the international prices of HSS are greatly influenced by the cost of Hot Rolled Coil which accounts for approximately 80-90% of the cost of manufacturing HSS.

Confidential Graph 2¹⁰ shows the prices of South East Asian HRC before and after the measures were imposed.

CONFIDENTIAL Graph 2

Given that the prices of HRC, which accounted for 80-90% of the cost of HSS, were falling post the investigation period for Investigation 254 and then recovered some 12 months after the Minister made the decision to impose measures the Commission observation simply reflects expected behaviour.

The Commission makes a further observation

The Commission observes that the FOB export price of HSS from Thailand is the lowest of all countries subject to measures and one of the lowest from all countries, which has consistently been the case since the year commencing 1 October 2011. The Commission also notes that, in the inquiry period, this has occurred in the absence of dumping.

This further observation is also unsurprising if one understands:

- i. the cost factors that drive different price points for different models that form the goods described as HSS and
- ii. The impact of the effect the different timing and type of measures imposed in Investigation 254 (ad valorem) versus those imposed in Investigation 177 (the combination method).

If the exported MCC codes are correct, the Commission is aware that the two co-operating exporters that exported HSS to Australia during the Continuation Inquiry period predominately exported painted or no oil and painted HSS and didn't export galvanised HSS. The price difference between galvanised and painted HSS is significant and would

¹⁰ References to Confidential Graphs are based on subscription information.

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contribute to the greater weighted average price for HSS goods than for the non Thai exporters making the Thai exporters appear cheaper on a weighted average basis.

To assist in highlighting the impact of the different types of measures **Confidential Graph 3** shows the international prices of HRC at the time of the investigation period for both investigation 177 and 254.

CONFIDENTIAL Graph 3

At the time, the Minister made the decision to impose measures for investigation 177, the Minister imposed the combination method of duty collection which includes both an ad valorem percentage and a floor price based on the ascertained export price (AEP).

When the AEP was calculated for Investigation 177, the average cost of HRC was approximately █████¹¹ per tonne. Floor prices didn't become a factor in measures on Thai HSS until much later, and occurred at times when the costs of HRC and subsequent prices of HSS were much lower.

In addition; the floor prices for the non Thai exporters would be calculated based on the weighted average of goods that includes galvanised HSS which is more expensive than painted or no oiled and painted (typically exported from Thailand). It is the combination of these two factors that would explain why Thai HSS exporters are the lowest of all exporters with measures.

In the SEF 532 section, **7.4.7 Impact of Measures on prices**, the Commission reports that it observes in this inquiry

that, when analysed on a MCC level, Saha Thai's pricing is up to 16 per cent higher than the floor price applicable to it, despite raw material costs being at a comparable level during the inquiry period to that in REP 445 when the floor price was set.

This analysis indicates that prices for HSS exported from Thailand are not being set with reference to the current measures.¹²

Austube Mills disagrees with the Commission assessment, noting that it is more likely the volatility of the international HRC prices and the subsequent flow through impacts on prices of both domestic and imported HSS prices during the inquiry period for Continuation Inquiry 254 that generate this outcome.

Confidential Graph 4 shows that the volatility in movement in HRC prices alone could easily have contributed to Saha Thai needing to sell at up to 16 per cent higher if it were to ensure that it wasn't found to be dumping in the inquiry period for Continuation Inquiry 532.

CONFIDENTIAL GRAPH 4

¹¹ All references to prices are Confidential prices based on subscription information.

¹² SEF p 51.

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If, as the Commission suggests that exporters such as Saha Thai were not pricing HSS exports to Australia with reference to the current measures, it seems incomprehensible that with an additional 100,000 tonnes excess capacity between just three exporters, and if the Commission's dumping margin calculation is accurate, being up to 13.1% more profitable to export to Australia than it is to sell in Thailand, why Thai exporter haven't increased their export volumes to Australia. Austube Mills submits that this is evidence that measures are having their intended effect of preventing dumping and injury.

Austube Mills submits that this is evidence that measures are having their intended effect of preventing dumping and injury.

Austube Mills submits that the preliminary negative dumping margins that have been found are more likely to be the mathematical outcome of the combination of falling HRC prices over the inquiry period and the time gap between the Thai exporters agreeing on an export price and then invoicing. It is understood in the market that the time taken between placing an order with Saha Thai and it being delivered can be up to 4 to 5 months. In a falling cost and price environment this can have a significant impact on the dumping margin calculation.

Confidential Graph 5 below shows the potential impact on the Commission's dumping margin calculation when export orders are negotiated three months prior to the actual despatch and invoice date. Thai January 2019 domestic prices of HSS would likely be based on December 2018 HRC prices which the [redacted] CFR data shows were approximately [redacted] tonne. On the other hand, the export invoices in January 19 were likely based on October 18 HRC prices which were approximately [redacted] tonne higher at [redacted] tonne. This could influence the dumping margin calculation of an exporter such as Saha Thai by approximately 16.3%¹³

CONFIDENTIAL Graph 5

It also explains why Saha Thai and other Thai exporters have made no claims to base the date of sales on any other date apart from the invoice date.

In the context of a Continuation Inquiry, it is important for the Commission to understand if the time delay between the order acceptance and order invoice in a falling price environment is the actual driver of the large negative dumping margins. This is as it is likely that in the future, that as the cost and price cycle moves upward that these conditions would reverse and that dumping would likely again recommence.

D. Conclusion

In summary Austube Mills submits that the Commission's preliminary recommendation to allow the measures to expire is based on trade data at too high a level that includes significant volumes of products that are not the goods.

In addition, Austube Mills submits the Commission has not considered the significance of the impact of the volatility in the cost HRC, the key raw material for HSS, nor the significance of the effect of the different type of measures on other exporters or their product mix which includes more expensive models than those exported by the Thai exporters.

¹³ Calculation is based on 80% of the difference in the HRC price between the 2 periods.

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Austube Mills considers that this may have led to the Commission to underestimate the significant role that measures have had in preventing Thai exporters from continuing to dump and cause injury to the Australian industry.

Austube Mills submits that the measures imposed by the Minister in Investigation 254 have had the intended effect of preventing dumping and the material injury caused by dumping. It would be disappointing to the Australian industry, their employees, suppliers and manufacturing in general, that the government agency charged with administering the anti-dumping system recommends the removal of the measure, as a direct result of the effectiveness of the measures, at a time when the continuation of the measure is essential to prevent material injury to the industry recurring or continuing.

Austube Mills submits that:

- the excess capacity that existed amongst Thai exporters before the impact of Covid-19 will increase significantly, making it likely that Thai exporters would recommence dumping and causing material injury to the Australian industry should the measures not be continued;
- the available evidence demonstrates that the anti-dumping measures have had the intended effect of constraining the export behaviour of Thai exporters in the Australian market such that exports are not at dumped prices that would materially injure Australian industry;
- the available evidence demonstrates that due to restrictions and disruptions to traditional export markets for Thai manufacturers of HSS it is likely that increased volumes of HSS will be exported to Australia if the measures were not to be continued;
- based on past observed behaviour of Thai exporters, including anti-dumping findings in Australia and other countries, and the cycle of observed HRC and HSS prices, that it is likely that dumping by Thai exporters will continue or recur if the measures were not to be continued; and
- those dumped exports will likely result in material injury continuing or recurring to Australian industry if the measures were to not to be continued.

Austube Mills submits that based on a more detailed assessment of the HSS markets in both Thailand and Australia, that the Commissioner has sufficient evidence to be 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 and the material injury that the anti-dumping measure is intended to prevent.

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