

PUBLIC RECORD

Austube Mills Pty Ltd
ABN 21 123 666 679

Head Office - Industrial Drive, Mayfield NSW 2304
PO Box 156, Newcastle NSW 2300
Ph: +61 2 4935 4498



29 April 2020

The Director
Investigations 1
Anti-Dumping Commission

By Email: investigations1@adcommission.gov.au

Dear Director,

REVIEW OF MEASURES No. 529 (REV 529)- HOLLOW STRUCTURAL SECTIONS (HSS) EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (CHINA), THE REPUBLIC OF KOREA (KOREA), MALAYSIA, TAIWAN AND THE KINGDOM OF THAILAND (THAILAND)

Austube Mills Pty Ltd (**Austube Mills**) provides the following submission to the Anti-Dumping Commission (the **Commission**) for REV 529 concerning HSS exported from Thailand by Saha Thai Steel Pipe Public Company Limited (**Saha Thai**).

Austube Mills has concerns and requests clarification in the following areas as noted in this submission:

- Cost to make of HSS
- Export terms and costs
- Foreign exchange gains and losses
- Related party transactions
- Model Control Codes and model matching
- Credit terms
- Finance costs
- Dumping margin

1. Cost to make (CTM)

Austube Mills observes that Saha Thai's Exporter Questionnaire response notes that it does not maintain costs to make by market (domestic or export) and that it has reported a single cost to make for all products¹.

The single cost only captures an average cost to make for all products and will not reflect a reasonable CTM for the goods and like goods subject to the review, will affect ordinary course of trade (**OCOT**) testing, will affect specification adjustments and will also affect constructed normal values where required.

It is not clear from the Verification Report whether the average costs reported by Saha Thai have been adjusted to reflect the actual CTM for the HSS exported and sold on the domestic market.

¹ EPR REV529/026, p.29.

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Cost of Coil

Reporting a single cost to make will return an average cost of coil used to manufacture the HSS that will not reflect the cost of the different grades that are applicable to the exported HSS and like or identical domestic HSS.

More importantly a single cost of coil for the export and domestic markets gives an erroneous cost as imported coil used to make domestic HSS is subject to import duties, including anti-dumping and safeguard duties, whilst imported coil used to make exported HSS is not subject to the same duties.

The resulting single cost leads to the cost of domestic HSS being understated as the full cost of import duties has not been correctly allocated to the coil used to make the domestic HSS.

This issue was addressed in the verification report for Saha Thai in the original investigation, Investigation 254 (**INV254**) where the verification team stated:

We noted that although Saha Thai's CTMS is calculated down to the product code level, it does not differentiate between the costs of domestic and export HSS and that import duties paid is applied equally between domestic and export HSS. The visit team considered that as exported HSS is exempted from import duties and only HSS sold domestically attracts import duty, a reallocation of imported duty to the cost of domestic HSS is required.²

Austube Mills notes that Thailand's most recent reports³ for the period ending 31 December 2019 to the *World Trade Organisation (WTO)* shows that:

- anti-dumping duties continue to apply to Hot Rolled Coil (HRC) and hot rolled steel not in coils imported into Thailand from 19 countries;
- Anti-dumping duties continue to apply to Cold Rolled Coil (CRC) and cold rolled steel not in coils imported into Thailand from three countries; and
- Anti-dumping duties continue to apply to zinc and galvanised steel from four countries.

The above products subject to anti-dumping duties can be used to manufacture HSS subject to the measures.

In addition, Austube Mills notes that Thailand reports to the WTO state that safeguard measures continue to apply to imports of HRC. The safeguard measures were first imposed in June 2014 and extended for a further three years in June 2017 to June 2020. The measures do not apply to developing countries so long as their share of imports do not exceed 3%. The safeguard measures also do not apply to products that will be processed into a finished product that will be exported from Thailand.

The relevant safeguard duty for the period of review for REV529 was 20.87% of the c.i.f. (cost insurance and freight) price for 7 June 2018 – 6 June 2019 and 20.74% of the c.i.f. price for 7 June 2019 to 6 June 2020. It appears that the safeguard measures are in addition to any anti-dumping duties that apply.

² EPR INV 254/031, p.25

³ https://www.wto.org/english/thewto_e/countries_e/thailand_e.htm

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Austube Mills requests that the Commission re-examine the cost of coils in Saha Thai's data and allocate all import duties solely to the cost of coil used to manufacture HSS for the domestic market to ensure accurate and correct CTM, OCOT, specification adjustments and constructed normal values are applied.

Allocation of costs for the goods.

Saha Thai's Exporter Questionnaire response notes for its cost accounting practises:

In 2018, Saha Thai's cost accounting system was based on hybrid cost, combination of actual and standard cost. In 2019, the cost accounting system was based on standard cost. For reported costs, Saha Thai has reported cost on actual cost basis in the response (adjusted from standard cost to actual cost).⁴

The review period for REV529 is 1 October 2018 to 30 September 2019, whilst Saha Thai's accounting period is the calendar year January to December. Effectively the overwhelming majority of Saha Thai's costs for the review period were standard costs.

The verification report for Saha Thai notes that manufacturing overheads and labour material costs are based on actual expenses. The report further notes that Variance(s) (to costs) are allocated proportionally amongst GUC and non-GUC by revenue.⁵

Austube Mills submits that allocating variances to standard costs based on revenue does not reflect the actual costs for those costs. There are questions over timing differences and how often the standard costs are updated to reflect changes based on actual costs, this would potentially lead to a misrepresentation of costs by quarter that is used for OCOT purposes.

Furthermore, allocating variances to standard costs based on revenue does not reflect the variance to such standard costs and departs from the purpose of using standard costs which is to alert the manufacturer that manufacturing costs have differed from the standard or planned costs.

Variances for raw materials can be based on the planned cost, or price, and any differences between that budgeted cost and the actual purchase cost, such as price increases or decreases.

Variances for labour can be based on the standard rate less any differences that affect that rate, such as pay increases or efficiency gains or losses.

Variances for variable manufacturing overheads can be based on changes in costs of those overheads, such as energy and consumables and efficiency changes.

Variances for fixed overheads can be based on budgeted changes and production volumes.

All of the above variances reflect the changes to standard (or budgeted or planned) costs to reflect the actual costs. It is difficult to see how variances based on revenue can accurately reflect such changes.

⁴ EPR REV 529/026, p.23

⁵ EPR REV 529/031, p.11

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Austube Mills requests that the Commission review the actual costs, standard cost and variances to such costs put forward by Saha Thai to ensure that such costs reasonably reflect the cost to make HSS.

Additional Transport costs for HSS

Austube Mills notes that Saha Thai operates two HSS production facilities, one at Samutprakan and the other at Ayutthaya, north of Bangkok. Most of the HSS produced in the Ayutthaya factory is transported to the Samutprakan premises before being packed and sold.⁶

Austube Mills also notes that if the additional costs incurred in transporting HSS from Ayutthaya to Samutprakan are allocated across all the production of all HSS then such costs will be understated for the HSS.

Austube Mills requests that the Commission re-examine the costs for transporting HSS from Ayutthaya to Samutprakan to ensure that such costs represent the reasonable costs for that HSS and that such costs are included in the CTM for those HSS models.

Paint costs

Saha Thai sells mainly “black” HSS on the domestic Thai market with lesser volumes of galvanised and painted HSS⁷. Saha Thai also sells three types of painted HSS namely Red, Black and Blue painted pipe.

There is scope for confusion over what HSS is “black” or unpainted HSS and the black painted HSS that Saha Thai sells. Where “black or unpainted” pipe is included in the production volumes to determine the average cost of paint this would lead to an understatement of paint costs.

Austube Mills is aware that the HSS that Saha Thai exports to Australia is “blue or red” painted HSS. Austube Mills requests that the Commission re-examine the cost of paint for the identical HSS sold on the domestic market (that is “blue or red” painted HSS) to ensure that such costs represent the reasonable cost of the paint for that HSS.

2. Export terms and costs

Export terms

Austube Mills notes that Saha Thai states in its Exporter Questionnaire response that export delivery terms are FAS, (Free Alongside Ship)⁸.

This is at odds with the verification report that notes Saha Thai arranges and pays for the port handling charges at the port of export and arranges and pays for the ocean freight and marine insurance.⁹

⁶ EPR INV 254/031, p.13

⁷ EPR INV 254/031, p. 28.

⁸ EPR REV 529/026, p.13.

⁹ EPR REV 529/035, p.13

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The payment of port handling charges indicates export sales at a Free On Board (FOB) price level which differs to that stated in the Exporter Questionnaire response, whilst the payment of ocean freight and marine insurance indicates export sales on a c.i.f price level.

The verification report also notes that adjustments were made to ensure the normal value is comparable to the export price of goods exported to Australia at free-alongside-board (FOB) terms for export port charges but there is no mention of adjustments for ocean freight and marine insurance¹⁰.

Further, the phrase free-alongside-board (FOB) does not mean a Free On Board price level. The two terms are as noted, Free Alongside Ship and Free On Board.

Free Alongside Ship is a term used in international trade contracts that indicates that the seller must arrange for the goods purchased to be delivered next to the vessel in port ready for loading onto the ship. The buyer is responsible for loading the goods onto the ship and all costs thereafter. Such costs include loading charges onto the ship and port clearance charges. Transfer of the goods passes from buyer to seller at the point where the goods are delivered alongside the ship ready for loading.

Free On Board is a term used for where the seller is responsible for all charges in delivering the goods to and loading on board the ship ready for export. Transfer of the goods passes from buyer to seller at the point where the goods have been loaded on board the ship ready for export.

Free Carrier (FCA or FCL) is another term used where the seller hands over the goods, cleared for export, to a location nominated by the buyer. FCA is typically used for containerised goods, Austube Mills is aware that Saha Thai exports HSS in containers.

Austube Mills requests that the Commission review the information relating to Saha Thai's export terms to clarify the terms and pricing of its exports of HSS to ensure the correct adjustments are made to the normal value to obtain a FOB price level.

Export costs

Austube Mills further requests that Commission review the information relating to Saha Thai's export costs to ensure all costs relating to the export of HSS have been identified and accounted for. Austube Mills requests the Commission review the information relating to the specified delivery point for such sales and any terms relating to sales. Such sales may specify a delivery point to the barge terminal or truck pick up point opposite Saha Thai's factory and not to the actual port of loading for export.

Austube Mills notes the following process for export that has previously been identified for Saha Thai.

If the goods are break-bulk, trucks from an external company transport the finished goods from the factory to the nearby Chao Phraya River where the goods are loaded onto a lighter (barge). The lighter takes the goods down the river to the port of departure, Laem Chabang Port (a deep sea port) and comes alongside the designated vessel. Freight responsibility from this point rests with the buyer.

¹⁰ EPR REV 529/035 p.17

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If the goods are containerised, trucks transport the goods by road to Laem Chabang Port. Goods are delivered alongside the ship and freight responsibility from this point rests with the buyer. Saha Thai demonstrated that containerised cargo was packed at its premises and then transported to port.¹¹

Austube Mills is concerned that Saha Thai may be presenting its export costs at the loading point to the barge terminal opposite its factory or to the truck pick up point outside its factory, rather than to the port of export. The cost of transport from the Saha Thai factory to the port of export would not be insubstantial with Austube Mills noting, in a submission to the previous Review 445, that the shortest land route was approximately 116km.¹²

For both the land transport and barge transport it is also likely that the trucks and barges are returning empty to the Saha Thai factory and as such transport costs should take into account the costs of the round trip from the factory to the port of export and back to the factory and not just the costs associated with the one-way trip to the port.

In the original investigation, (INV 254), Saha Thai requested the Commission consider treatment of its fully containerised (FCL) exports at ex-works level¹³, that is calculation of the export price at an ex-works level.

In the Final Report 254 (REP 254) the Commission considered that a dumping margin calculation at a FOB (Free On Board) level provided a more accurate comparison of expenses incurred between domestic sales and export sales irrespective of whether the goods had been containerised before shipment. The Commission also considered that an FOB level calculation was necessary to be able to account for cost differences between Saha Thai's domestic sales versus Australian export sales¹⁴.

Saha Thai appealed the calculation of export prices at an FOB level to the Anti-Dumping Review Panel (ADRP). In rejecting the appeal, the ADRP noted that:

Section 269TAB contemplates that the price will ordinarily be determined on a basis which excludes any part of the price which relates to transport after exportation. This compels a factual inquiry as to the actual place of exportation from the exporting country and will generally involve resort to the Free on Board ("FOB") price of the goods. Goods have not been exported when they have been packed into a container at an exporter's works¹⁵.

Austube Mills requests that Saha Thai's export prices for REV 529 be again calculated on a FOB level. A FAS price does not include all costs relating to pre-exportation of the goods. Calculation of costs to a FOB level should include all costs to a FOB level, including containerisation, transportation from factory to port of export and FOB costs.

3. Foreign exchange gains and losses

Austube Mills notes the following findings from Saha Thai's Exporter Questionnaire response:

- The accounts are kept in Thai Baht.

¹¹ EPR INV 254/031, p.16

¹² EPR REV 445/019, p.2

¹³ EPR INV 254/052, p.29.

¹⁴ EPR INV 254/052, p.30.

¹⁵ ADRP Report No. 28, p.9.

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- Saha Thai invoices the Australian customers in USD currency.
- Customers do not pay into a foreign currency denominated account.
- Forward contracts are not used to lock in the foreign exchange rate relating to the export sales
- Foreign currency transactions are translated into Thai Baht, using the exchange rates prevailing at the date of transaction (spot exchange rate) published by Bank of Thailand.¹⁶

Austube Mills notes that there is no mention of foreign exchange gains and losses in the verification report.

Austube Mills requests that the Commission review the information relating to Saha Thai's foreign exchange gains and losses. Austube Mills further submits that the Commission review the exchange rates used for purchases of HRC and sales of HSS and clarify the date of transaction and exchange rate used.

Austube Mills notes that the date of transaction generally refers to the date of invoice and that a foreign exchange loss or gain can arise when the exchange rate is different on the date when the payment is received or made to the rate applying at the date of invoice.

These changes in exchange rates between the date of transaction (date of invoice) and the date of payment can result in decreased revenue from exports (HSS) and increased costs for imports of raw material (HRC). As there is no evidence of foreign exchange hedging activities (i.e. forward contracts), any gains or loss are directly relevant to sales revenues realised or material cost expenses incurred following currency conversion for the settlement of ordinary business transactions.

Austube Mills submits that for foreign exchange losses in regard to HSS exported to Australia an upward adjustment to the normal value is required.

Austube Mills further submits that foreign exchange losses in regard to HRC purchased for HSS should be added to the CTM for the OCOT tests and to any constructed normal value.

4. Related party transactions

The verification report for Saha Thai identified the following related parties.

- Bangkok Barge Terminal Co., Ltd.
- Bangkok Container Depot Service Co., Ltd.
- Saha Thai Property & Development Co., Ltd.
- Saha Thai Terminal Public Co., Ltd.
- Sripoonsup Enterprise Co., Ltd.
- Sripoonthong Co., Ltd.

The report notes that there were no related suppliers of the goods and only one related customer.

¹⁶ EPR REV 529/026, pps. 11, 13

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Austube Mills notes that Bangkok Barge Terminal Co Ltd has been authorised by the Thai Customs Department to operate an Inland Container Depot (**ICD**), starting from July 21, 2017¹⁷ and that such services may relate to the export of HSS. The article notes that the terminal serves as a new gateway to the port of export for customers who need goods moved to and from the outlying areas of Bangkok.

The article also notes that Saha Thai opened a container terminal on the banks of the Chao Phraya River in Bangkok in 2007. The terminal currently accommodates intra-Asia container services and barge services. The company not only operates the container terminal, but also provides logistics services including warehousing in Thailand.

Such services appear relevant to the export of HSS as well as the importation of HRC.

The Bangkok Barge Terminal Co. Ltd, Bangkok Container Depot Service Co Ltd and Saha Thai Terminal Public Co. Ltd. all appear to provide services related to HRC and HSS. Austube Mills requests that the Commission review the information in regard to related parties to ensure that transactions relating to the export of HSS and the importation of HRC, including transportation and storage charges, are at market prices.

Such services provided by the related parties should be profitable at a fully absorbed cost to make and sell level and the prices charged and payment terms to its related parties should be equivalent to the prices charged and payment terms to external customers.

Austube Mills notes that Sripoonsup Enterprise Co., Ltd and Sripoonthong Co., Ltd are distributors of steel pipe and tube products. Austube Mills also notes that the verification report appears to refer to only one related customer¹⁸.

Given that a related party sales strategy may be used to manipulate a dumping margin outcome Austube Mills respectfully requests the Commission review the information in regard to sales to related parties. Austube Mills further requests that in reviewing whether there are price difference between related and unrelated customers that such comparison is done on the prices of identical models on identical terms, taking into account factors including level of trade, timing, payment terms and volumes.

5. Model Control Codes and model matching

Table 2: MCC sub-category determination

Austube Mills notes that the verification report refers to Table 2: MCC sub-category determination and Table 2 below outlines how the standard/grade is mapped to the yield strength¹⁹. Austube Mills observes that there does not appear to be any Table 2 in the verification report on the EPR and requests that the report and EPR be updated to include Table 2.

HSS with L0 rating

Austube Mills notes that the previous verification report noted that some purchase contracts specified that goods be produced with an L0 rating, which provides evidence of impact testing. The goods with this rating carried a price

¹⁷ <https://www.portcalls.com/mol-open-box-barge-terminal-bangkok/>

¹⁸ EPR REV 529/035, p. 14.

¹⁹ EPR REV 529/035, pps 4-5

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extra but were not initially identified in the export sales spreadsheet. Subsequently, the visit team requested, and Saha Thai provided, an updated Australian export sales spreadsheet identifying the transactions with the L0 rating. The verification team was then able to crosscheck these sales with the purchase orders for the selected sales to establish that all instances of L0 goods had been recorded for this sample.²⁰

Austube Mills is aware that Saha Thai continues to export HSS with a L0 rating and requests that the Commission review Saha Thai's export sales data to ensure that such sales are identified. Export sales to a L0 rating carry, as noted, a price extra that is relevant for model matching and adjustments.

Export MCCs and suitability of domestic sales.

Austube Mills notes that Saha Thai exported four models of HSS during the review period.

- P-N-O-R-350-P;
- P-N-P-R-350-P;
- P-N-N-R-350-P;
- P-N-P-C-250-P.²¹

However, the verification report only notes sufficient sales for three models of identical MCCs. There is no mention of what method was used to determine a normal value for the fourth model, P-N-P-C-250-P.

Austube Mills requests that the Commission clarify what method was used for the fourth model.

6. Credit terms

Domestic credit

Austube Mills observes that the verification report notes that payment terms for some domestic sales were excluded by Saha Thai and that the Commission used a weighted average based on sampled transactions for the missing data.²²

Austube Mills considers that using a weighted average for the missing sales payment terms will advantage the exporter where the actual terms are less than the average. Austube Mills submits that where incomplete or missing data is provided by the exporter then the lowest number of payment days verified should be substituted for the missing payment terms.

Export credit

Austube Mills observes that the verification report notes that payment terms for all export sales were excluded by Saha Thai and that the Commission used a reasonable time frame based on sampled transactions.²³

²⁰ EPR INV 254/031, p.19

²¹ EPR REV 529/035, p.5

²² EPR REV 529/035, p.8

²³ EPR REV 529/035, p.8

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Austube Mills questions what is a reasonable time frame and whether such a time frame may understate the actual payment terms for the missing data to the advantage of the exporter.

Austube Mills submits that where incomplete or missing data is provided by the exporter then the best available information should be substituted for the missing payment terms. Austube Mills notes that available information shows that terms for payment for exports of HSS from Saha Thai were \blacksquare^{24} days \blacksquare and submits that such terms should instead be substituted for the missing data. (*commercially sensitive terms*)

7. Finance costs

Austube Mills notes that there is no mention of finance costs in the verification report. As noted above, in regard to related party transactions, Saha Thai recently opened a new barge terminal.

Austube Mills considers it is likely that Saha Thai incurred finance costs for the new terminal and that the terminal is involved in the importation of HRC used to make HSS and in the exportation of HSS.

Austube Mills respectfully requests that the Commission review Saha Thai's finance costs in regard to HSS.

8. Dumping margin

Austube Mills notes the preliminary dumping margin of negative 13.1% in the verification report and provides the following comments²⁵.

Thailand has anti-dumping duties and safeguard measures on HRC, the purpose of such measures is to allow the domestic HRC industry to increase prices to profitable level and/or maintain such prices at a profitable level.

It can be reasonably assumed that the domestic HRC price in Thailand would be equal to the imported HRC plus the 20.74% safeguard measure and likely any anti-dumping duties.

The verification report notes that identical sales were found to be in OCOT, Austube Mills notes that this means such sales were profitable. Austube Mills also observes that Thailand's latest report to the WTO, mentioned above, notes anti-dumping measures on steel pipe and tube. Such measures, as with the measures on HRC, are likely to result in higher prices for HSS in Thailand.

Effectively, what the preliminary margin of (negative) -13.4% is stating is that the export price of the HSS exported by Saha Thai is around 15% higher than the domestic price of the identical HSS sold in Thailand. Further the domestic price is a profitable price based on the price of South East Asian coil prices plus 20.74% to bring such HRC prices to the equivalent domestic price of HRC producers in Thailand.

This equates to the HSS exported by Saha Thai being at a price comprising the South East Asian coil price plus 20.74%, plus conversion and other costs to bring the HSS to a free on board price, plus a profit margin up to 18%.

²⁴ Refer Confidential Attachment 1

²⁵ EPR REV 529/035, p.20

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Austube Mills does not consider that such a price would be competitive in the Australian market and respectfully requests that the Commission review its dumping calculations.

For and on behalf of Austube Mills