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Committee on Safeguards

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**NOTIFICATION PURSUANT TO ARTICLE 12.1(C) OF
THE AGREEMENT ON SAFEGUARDS**

**NOTIFICATION PURSUANT TO ARTICLE 9, FOOTNOTE 2
OF THE AGREEMENT ON SAFEGUARDS**

THAILAND

(Hot Rolled Steel Flat Products with Certain Amounts of Alloying Elements)

Supplement

The following communication, dated 2 March 2016, is being circulated at the request of the Delegation of Thailand.

With reference to Thailand's notification on the initiation of a review pursuant to Article 7.2 of the Agreement on Safeguards regarding the extension of the safeguard measure (WTO Document G/SG/N/6/THA/2/Suppl.1-G/SG/N/14/THA/2) dated 27 July 2015 and the proposal to extend a measure under Article 12.1(b) of the Agreement on Safeguards (WTO Document G/SG/N/10/THA/2/Suppl.2-G/SG/N/11/THA/2/Suppl.4) dated 6 January 2016, Thailand hereby provides notification to the Committee on Safeguards pursuant to Article 12.1(c) and Article 9, footnote 2 of the Agreement on Safeguards, on its decision to extend a safeguard measure that is being applied against imports of hot-rolled steel flat products with certain amounts of alloying elements.

Consistent with Article 12.2 of the Agreement on Safeguards, this notification contains all pertinent information relating to the decision to extend the safeguard measure on product concerned.

**1 THE SAFEGUARD MEASURE CONTINUES TO BE NECESSARY TO PREVENT OR REMEDY
SERIOUS INJURY OR THREAT THEREOF CAUSED BY INCREASED IMPORTS AND THERE IS
EVIDENCE THAT THE INDUSTRY CONCERNED IS ADJUSTING**

a. Basic industry indicators

| Item | 2011 | 2012 | 2013 | 2014 | 2014 (Jan-Jun) | 2015 (Jan-Jun) |
|----------------------------|---------|---------|---------|---------|-------------------|-------------------|
| Sales (MT)* | 100 | 95.65 | 88.23 | 83.49 | 100 | 98.19 |
| Market share (%) | 80 | 66 | 86 | 92 | 93 | 89 |
| Import Share (%) | 20 | 34 | 14 | 8 | 7 | 11 |
| Consumption (MT)* | 100 | 115.82 | 81.63 | 72.27 | 100 | 102.66 |
| Production (MT)* | 100 | 89.78 | 88.79 | 83.40 | 100 | 92.87 |
| Capacity Utilisation (%) | 40 | 36 | 36 | 34 | 33 | 31 |
| Productivity (%) | 96 | 96 | 96 | 98 | 97 | 97 |
| Profit/Loss (million baht) | (2,868) | (7,573) | (3,431) | (2,677) | (888) | (2,844) |
| Employment (number)* | 100 | 90.82 | 89.00 | 95.08 | 100 | 105.02 |

* Index: Year 2011 = 100, 2014 (Jan-Jun) = 100

In year 2011 and 2012, imports of product concerned dramatically increased inflicting serious injury on the domestic industry. Notably the market share of the domestic industry dropped from 80% in year 2011 to 66% in year 2012 and the domestic industry faced 2.5 folds losses in 2012 compared with the previous year.

Following the imposition of provisional measures on 27 February 2013, the domestic industry was able to regain market share in 2013 and 2014 which resulted in a reduction of losses and stabilizing sales and production at a reduced level even though the domestic consumption moderately declined. Most importantly, one of the domestic-industry companies, G Steel PCL., was able to resume its production in April 2014 after it temporary shut down since mid-2012 due to its huge losses caused by the surge of imports of the product concerned before the measure was imposed.

However, from January to June 2015, imports increased compared to the same period of 2014, and the market share of the domestic industry declined even though consumption slightly expanded as imports increased both in absolute terms and relative to consumption. Although the sales slightly decreased the domestic industry encountered great losses compared with the same period in 2014, showing the devastation of its profit-making ability largely due to import prices that have remained well below those of the domestic industry.

The authorities also considered factors other than increased imports that might be causing serious injury of domestic industry including the decrease of domestic demand caused by the effect of the global economic slowdown and Thai political unrest, management ability of the domestic industry, productivity of domestic industry, investment in SSI UK of Sahaviriya Steel Industry PCL., etc., by segregating and analysing each injurious indicator that may be affected by these factors. The authorities analysed those injurious effect so that any injury caused by these factors was not attributed to the flux of imports.

In fact, the domestic industry currently has 7.9 million tons total production capacity which is more than enough to meet the domestic demand. Moreover, it maintains productivity (output/input) at the 96% - 98% level. Therefore, the lack of capability to supply the domestic demand is not the reason for the need of importation. In addition, the product concerned which had received special exemption i.e. for cold rolling process; for the automobile industry; for hardening process and as special grade steels granted to certain importers already precluded from this analysis by names of exempted importers.

In view of the clearly established coincidence in time between, on the one hand, the level of imports at low prices and, on the other hand, the domestic industry's loss of sales volume and decreasing profitability, it is concluded that the safeguard measure continues to be necessary to prevent or remedy serious injury or threat thereof caused by increased imports.

b. Condition of imports

As imports increased in 2015, the ability to maintain market share in spite of the measures in force was undermined largely due to import prices of product concerned that were well below those of the domestic industry. As a result, the domestic industry continued to face losses in 2013-2014 and these tripled during January to June 2015 when imports started to increase once more.

| | 2011 | 2012 | 2013 | 2014 | 2014 (Jan-Jun) | 2015 (Jan-Jun) |
|----------------------------|---------|---------|---------|---------|-------------------|-------------------|
| Import Share (%) | 20 | 34 | 14 | 8 | 7 | 11 |
| Profit/Loss (million baht) | (2,868) | (7,573) | (3,431) | (2,677) | (888) | (2,844) |

c. Unforeseen developments

The unforeseen development issues were explained in the disclosure of finding of the initial investigation. In particular, the significant increase of imports was attributable to the adverse effects of the steel products' oversupply situations in many countries, which were the world steel producers, combined with the global economic slowdown resulting from the Euro-Zone crisis causing the reduction of world steel usage's demand. As a result, excessive amount of steel products were exported from those major steel producer countries, especially from the People's

Republic of China, to any other possible markets, in this case, Thailand, at the undercutting prices which were well below the prices of Thai domestic industry, in order to absorb the oversupply products available in their home countries and to utilize their excess capacities.

In addition, the increase in imports volumes was attributable to the effects of Thailand's obligations incurred under WTO as Thailand undertook to apply 5% MFN tariff rate to all WTO Members for the product concerned.

It was concluded that increased imports of product concerned were the result of unforeseen developments mentioned above and of the effect of Thailand's obligations incurred under WTO, in accordance with the Agreement on Safeguards and Article XIX:1(a) GATT 1994.

d. Evidence that the industry concerned is adjusting

The Committee on Safeguard Measure of Thailand appointed the working group of steel industry experts to closely monitor the adjustment plan in phase I and evaluated the achievement of the domestic industry. This working group will also monitor the adjustment plan in phase II.

1. Initial Adjustment Plan for 2013 - 2015 (Phase I)

Since February 2013 until September 2015 when the safeguard measure was in force, the domestic industry exercised several programs aiming at the overall cost reduction, product development and production efficiency in order to increase its competitiveness. The programs included:

- a. Increase production efficiency including new machine installation, with the investment of over 240 million baht, for higher production within a shorten time;
- b. Cost reduction programs: the domestic industry exercised 25 cost reduction programs by investing over 87 million baht in the machine and equipment resulting in a cost reduction of over 1.3 billion baht;
- c. Product development: the domestic industry invested over 340 million baht for installation of new machine to produce thicker and wider products to meet customer specifications and expand new market segments. At this stage, focusing on product quality, several items of domestic products were accepted by the automobile industry as its approved source.

2. Adjustment Plan for 2016 - 2019 (Phase II)

After the huge investment in Phase I and several programs being underway, this second phase involves the continuous implementation of the programs in Phase I by lowering the production cost, increasing production efficiency, development of new product standards and grades to meet wider customers' expectation, improving the competency of human resources especially in production control and improving customer satisfaction.

In sum, Phase II of the adjustment plan, which is the continuation of Phase I plan, involves the investment by the domestic industry over 1 billion baht which will result in cost reduction of almost the same level but which will improve the overall competency of the domestic industry.

e. Public interests

During the course of the investigation, concern has been expressed that measure was against the public interest in that the safeguard measure will increase cost of production of the down steam productions. As a result, those products would not be able to compete with low price finished products from the People's Republic of China.

In this respect, the authorities conclude that it is in the long term public interest to extend the temporary protection to allow the industry to complete the adjustment process and regain competitiveness so as to provide the consumer with a variety of quality products at a reasonable price.

2 INFORMATION ON WHETHER THERE IS AN ABSOLUTE INCREASE IN IMPORTS OR AN INCREASE IN IMPORTS RELATIVE TO DOMESTIC PRODUCTION

See points 1.a and 1.b above.

3 PRECISE DESCRIPTION OF THE PRODUCTS CONCERNED

The products concerned are hot rolled steel flat products with certain amounts of alloying elements such as boron, chromium, etc., in coils and not in coils, with or without patterns in relief, of a thickness of 0.9 – 50.0 mm. and a width 100 – 3,048 mm. The products concerned are currently classified under the Thai Customs Tariff Code at 36 subheadings: 7225.30.90.011, 7225.30.90.012, 7225.30.90.013, 7225.30.90.014, 7225.30.90.021, 7225.30.90.022, 7225.30.90.023, 7225.30.90.024, 7225.30.90.090, 7225.40.90.011, 7225.40.90.012, 7225.40.90.013, 7225.40.90.014, 7225.40.90.021, 7225.40.90.022, 7225.40.90.023, 7225.40.90.024, 7225.40.90.090, 7226.91.10.011, 7226.91.10.012, 7226.91.10.013, 7226.91.10.014, 7226.91.10.021, 7226.91.10.022, 7226.91.10.023, 7226.91.10.024, 7226.91.10.090, 7226.91.90.011, 7226.91.90.012, 7226.91.90.013, 7226.91.90.014, 7226.91.90.021, 7226.91.90.022, 7226.91.90.023, 7226.91.90.024, 7226.91.90.090, originating in or exported from various countries.

4 IF THE FINAL MEASURE REPLACES A PROVISIONAL MEASURE, OR IF A FINAL MEASURE IS EXTENDED, A MEMBER IS ENCOURAGED TO PROVIDE A WRITTEN DESCRIPTION OF ANY PART OF THE IMPORTED PRODUCT THAT WILL NO LONGER BE SUBJECT TO THE MEASURE

Not applicable.

5 PRECISE DESCRIPTION OF THE EXTENDED MEASURE

It was concluded that the safeguard measure continues to be necessary to prevent or remedy serious injury or threat thereof caused by increase imports while the domestic industry is adjusting.

The extended safeguard measure would be applied in the form of a tariff increase for three years starting from 27 February 2016 until 26 February 2019.

In accordance with the relevant provisions of the Thai Safeguard Measures on Increased Imports Act B.E.2550 (2007), which refer to Thailand's obligations under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards, the Committee on Safeguard Measures of Thailand has decided to impose a safeguard duty which continues to be progressively liberalized during the period of its validity as follows:

| Extended Duration | Extended Safeguard Duty |
|-------------------------------------|--------------------------------|
| 27 February 2016 – 26 February 2017 | 41.67% of C.I.F. price |
| 27 February 2017 – 26 February 2018 | 40.42% of C.I.F. price |
| 27 February 2018 – 26 February 2019 | 39.21% of C.I.F. price |

The measure will not be applied against the products concerned originating in or exported from any developing country as long as its share of imports of the products concerned into Thailand does not exceed 3%. In this regard, as the list of developing countries whose share of imports of the products concerned into Thailand does not exceed 3% has remained unchanged since the last WTO notification under Article 9 footnote 2 (WTO Document G/SG/N/10/THA/2/Suppl.1-G/SG/N/11/THA/2/Suppl.3 dated 6 November 2014), the list of developing countries excluded from the measure remains the same and is attached in the Annex below.

In addition, the exemption from the imposition of the extended safeguard measure will be granted to certain importers importing the products concerned into Thailand for cold rolling process; for the

automobile industry; for hardening process and as special grade steels; and, import for export, i.e., the imported products that are intended to be manufactured, further processed or incorporated into a finished product that will be exported from Thailand under the Industrial Estate Authority of Thailand Act; or, the Investment Promotion Act; or, the Customs Act.

6 PROPOSED DATE OF INTRODUCTION OF THE MEASURE

The measure is expected to come into effect on 27 February 2016.

7 EXPECTED DURATION OF THE MEASURE

The measure would be effective from 27 February 2016 until 26 February 2019.

8 PROPOSED DATE FOR THE REVIEW

Not applicable.

9 INFORMATION RELATED TO THE EXTENSION OF A SAFEGUARD MEASURE

- i. Evidence that the industry concerned is adjusting and that the safeguard measure continues to be necessary to prevent or remedy serious injury is provided under 1 a) and d) as mentioned above.
- ii. Reference to the WTO document that notified the initial application of the measure:
 - Initiation of the original investigation, G/SG/N/6/THA/2 (4 December 2012);
 - Imposition of provisional measures, G/SG/N/7/THA/2-G/SG/N/8/THA/2-G/SG/N/11/THA/2 (13 February 2013);
 - Proposed definitive measure G/SG/N/7/THA/2/Suppl.2-G/SG/N/8/THA/2/Suppl.2-G/SG/N/11/THA/2/Suppl.1 (2 August 2013);
 - Imposition of definitive measure G/SG/N/8/THA/2/Suppl.3-G/SG/N/10/THA/2-G/SG/N/11/THA/2/Suppl.2 (25 September 2013);
 - Notifications under Article 9 footnote 2, G/SG/N/7/THA/2/Suppl.1-G/SG/N/8/THA/2/Suppl.1 (24 June 2013) and G/SG/N/10/THA/2/Suppl.1-G/SG/N/11/THA/2/Suppl.3 (6 November 2014).
- iii. Duration of the measure from initial application till the date at which it will be extended:
27 February 2013 (provisional measure) - 26 February 2019.
- iv. Precise description of the measure in place prior to the date of extension:
Duty of 42.95% of c.i.f. price during 27 February 2015 - 26 February 2016.

10 INFORMATION RELATING TO EXPORTING MEMBERS

- a. The main exporting countries to Thailand are the People's Republic of China, the Republic of Korea, Japan and the Republic of India.
- b. There are no exporting Members to which the measure does not apply for any reason other than the application of Article 9.1.

11 PUBLIC HEARING AND PRIOR CONSULTATION WITH THOSE MEMBERS HAVING A SUBSTANTIAL INTEREST AS EXPORTERS OF THE PRODUCT CONCERNED

The public hearing was held on 13 January 2016 at the Department of Foreign Trade (DFT), Ministry of Commerce of Thailand and the prior consultations were scheduled to be held, upon

request, for the interested parties with substantial interest on 14-15 January 2016 at the DFT. However, only the Government of India requested a time slot for prior consultation with DFT on Friday 15 January 2016 and the opportunity for consultation was granted even though the appointment was later cancelled by India. Therefore, there were no consultations between Thailand and any Members who have substantial interest as exporters of the product concerned.

12 FURTHER INFORMATION

The Committee on Safeguard Measure of Thailand's notification on the extension of safeguard measure was published in the Royal Thai Government Gazette on 26 February 2016.

ANNEX

LIST OF DEVELOPING COUNTRIES AND SEPARATE CUSTOMS TERRITORIES EXCLUDED FROM
THE IMPOSITION OF EXTENDED SAFEGUARD MEASURE ON HOT ROLLED STEEL FLAT
PRODUCTS WITH CERTAIN AMOUNTS OF ALLOYING ELEMENTS SUCH AS BORON,
CHROMIUM, ETC., IN COILS AND NOT IN COILS

| No. | Developing Countries exempted from the Imposition of Safeguard Measure | No. | Developing Countries exempted from the Imposition of Safeguard Measure |
|-----|--|------|--|
| 1. | The Republic of Angola | 51. | The Arab Republic of Egypt |
| 2. | The Republic of Botswana | 52. | The Great Socialist People's Libyan Arab Jamahiriya |
| 3. | The Republic of Burundi | 53. | The Kingdom of Morocco |
| 4. | The Union of the Comoros | 54. | The Republic of Tunisia |
| 5. | The Democratic Republic of the Congo | 55. | The Islamic Republic of Afghanistan |
| 6. | The Republic of Djibouti | 56. | The People's Republic of Bangladesh |
| 7. | The State of Eritrea | 57. | The Kingdom of Bhutan |
| 8. | The Federal Democratic Republic of Ethiopia | 58. | British Indian Ocean Territory |
| 9. | The Republic of Kenya | 59. | The Democratic Republic of Timor-Leste |
| 10. | Kingdom of Lesotho | 60. | The Republic of Maldives |
| 11. | The Republic of Madagascar | 61. | The Democratic Republic of Nepal |
| 12. | The Republic of Malawi | 62. | The Islamic Republic of Pakistan |
| 13. | The Republic of Mauritius | 63. | The Democratic Socialist Republic of Sri Lanka |
| 14. | Mayotte | 64. | The Republic of Albania |
| 15. | The Republic of Mozambique | 65. | The Republic of Armenia |
| 16. | The Republic of Namibia | 66. | The Republic of Azerbaijan |
| 17. | La Réunion | 67. | The Republic of Belarus |
| 18. | The Republic of Rwanda | 68. | Bosnia & Herzegovina |
| 19. | The Republic of Seychelles | 69. | The Republic of Bulgaria |
| 20. | Somalia | 70. | Georgia |
| 21. | The Republic of South Africa | 71. | The Republic of Kazakhstan |
| 22. | The Republic of Sudan | 72. | The Kingdom of Kosovo |
| 23. | Kingdom of Swaziland | 73. | The Kyrgyz Republic |
| 24. | The United Republic of Tanzania | 74. | The Republic of Lithuania |
| 25. | The Republic of Uganda | 75. | The Republic of Macedonia |
| 26. | The Republic of Zambia | 76. | The Republic of Moldova |
| 27. | The Republic of Zimbabwe | 77. | Montenegro |
| 28. | The Republic of Benin | 78. | The Republic of Romania |
| 29. | Burkina Faso | 79. | The Republic of Serbia |
| 30. | The Republic of Cameroon | 80. | The Republic of Tajikistan |
| 31. | The Republic of Cape Verde | 81. | Turkmenistan |
| 32. | Central African Republic | 82. | Ukraine |
| 33. | The Republic of Chad | 83. | The Republic of Uzbekistan |
| 34. | The Republic of the Congo | 84. | The Socialist Federal Republic of Yugoslavia |
| 35. | The Republic of Cote d'Ivoire | 85. | The Islamic Republic of Iran |
| 36. | The Republic of Gabon | 86. | The Republic of Iraq |
| 37. | The Republic of Gambia | 87. | Hashemite Kingdom of Jordan |
| 38. | The Republic of Ghana | 88. | The Republic of Lebanon |
| 39. | The Republic of Guinea | 89. | The Syrian Arab Republic |
| 40. | The Republic of Guinea-Bissau | 90. | West Bank & Gaza |
| 41. | The Republic of Liberia | 91. | The Republic of Yemen |
| 42. | The Republic of Mali | 92. | Anguilla |
| 43. | Islamic Republic of Mauritania | 93. | Antigua & Barbuda |
| 44. | The Republic of Niger | 94. | The Republic of Argentina |
| 45. | Federal Republic of Nigeria | 95. | Belize |
| 46. | The Democratic Republic of Sao Tome & Principe | 96. | The Plurinational State of Bolivia |
| 47. | The Republic of Senegal | 97. | The Federative Republic of Brazil |
| 48. | The Republic of Sierra Leone | 98. | British Virgin Islands |
| 49. | The Republic of Togo | 99. | The Republic of Chile |
| 50. | The People's Democratic Republic of Algeria | 100. | The Republic of Colombia |

| No. | Developing Countries exempted from the Imposition of Safeguard Measure | No. | Developing Countries exempted from the Imposition of Safeguard Measure |
|------------|---|------------|---|
| 101. | The Republic of Costa Rica | 133. | The Kingdom of Cambodia |
| 102. | The Republic of Cuba | 134. | Chinese Taipei |
| 103. | The Commonwealth of Dominica | 135. | Christmas Islands |
| 104. | Dominican Republic | 136. | Cocos (Keeling) Islands |
| 105. | The Republic of Ecuador | 137. | Cook Islands |
| 106. | The Republic of El Salvador | 138. | The Republic of Fiji |
| 107. | Falkland Islands (Malvinas) | 139. | The Republic of Indonesia |
| 108. | French Guiana | 140. | Johnston Islands |
| 109. | Grenada | 141. | The Republic of Kiribati |
| 110. | Guadeloupe | 142. | The Democratic People's Republic of Korea |
| 111. | The Republic of Guatemala | 143. | The Lao People's Democratic Republic |
| 112. | The Cooperative Republic of Guyana | 144. | Malaysia |
| 113. | The Republic of Haiti | 145. | The Republic of the Marshall Islands |
| 114. | The Republic of Honduras | 146. | The Federated States of Micronesia |
| 115. | Jamaica | 147. | Midway Islands |
| 116. | Martinique | 148. | Mongolia |
| 117. | The United Mexican States | 149. | The Republic of the Union of Myanmar |
| 118. | Montserrat | 150. | The Republic of Nauru |
| 119. | The Republic of Nicaragua | 151. | Niue |
| 120. | Norfolk Island | 152. | The Republic of Palau |
| 121. | The Republic of Panama | 153. | Pitcairn Islands |
| 122. | The Republic of Paraguay | 154. | Papua New Guinea |
| 123. | The Republic of Peru | 155. | The Republic of the Philippines |
| 124. | Saint Helena | 156. | Independent State of Samoa |
| 125. | The Federation of Saint Kitts & Nevis | 157. | Solomon Islands |
| 126. | Saint Lucia | 158. | Tokelau |
| 127. | Saint Pierre & Miquelon | 159. | The Kingdom of Tonga |
| 128. | Saint Vincent & the Grenadines | 160. | Tuvalu |
| 129. | The Republic of Suriname | 161. | The Republic of Vanuatu |
| 130. | The Republic of Uruguay | 162. | The Socialist Republic of Vietnam |
| 131. | The Bolivarian Republic of Venezuela | 163. | Wake Island |
| 132. | American Samoa | 164. | Wallis & Futuna Island |