

MOST URGENT
No. 0309/1101



Department of Foreign Trade,
563 Nonthaburi Road,
Nonthaburi 11000 Thailand

16 April B.E. 2569 (2026)

Dear The Productivity Commissioner,

Subject: Safeguards investigation concerning imports of Fabricated Structural Steel into Australia

The Department of Foreign Trade ("DFT") of the Ministry of Commerce of the Kingdom of Thailand presents its compliments to the Productivity Commission of the Australian Government ("PC") and expresses its appreciation for the strong trade relationship between Thailand and Australia, including the longstanding commercial ties between Thai exporters and Australian buyers of Fabricated Structural Steel ("FSS").

The DFT submits these observations on whether safeguard measures are warranted. Safeguard measures are an extraordinary remedy that may only be applied in extraordinary circumstances. While Thailand fully respects Australia's sovereign right to conduct safeguard investigations, the DFT is of the view that the available evidence does not meet the high legal standards required under the WTO Agreement on Safeguards ("SG Agreement"). These comments draw on data from the Global Trade Atlas and the Australian WTO Notification of 23 January 2026 ("Notification").

The DFT draws the PC's attention to five issues: (I.) absence of increased imports; (II.) absence of unforeseen developments; (III.) lack of serious injury; (IV.) failure to establish causation; and (V.) Australian public interest.

I. Have imports of FSS increased?

Article 2.1 of the SG Agreement permits a safeguard measure only where a product "*is being imported [...] in such increased quantities, absolute or relative to domestic production [...] as to cause or threaten to cause serious injury to the domestic industry.*"¹ In *Argentina – Footwear (EC)*, the Panel held that any genuine increase in imports must be "evident both in an end-point-to-end-point comparison and in an analysis of intervening trends over the period."² Moreover, the increase must be "*recent enough, sudden enough, sharp enough, and significant enough*" to cause or threaten serious injury.³ Investigating authorities must focus on recent import trends rather than longer historical averages.⁴

¹ Panel Report, *US – Safeguard Measure on PV Products (China)*, para. 7.70.

² Panel Report, *Argentina – Footwear (EC)*, paras. 8.156–8.157; Appellate Body Report, *Argentina – Footwear (EC)*, para. 129.

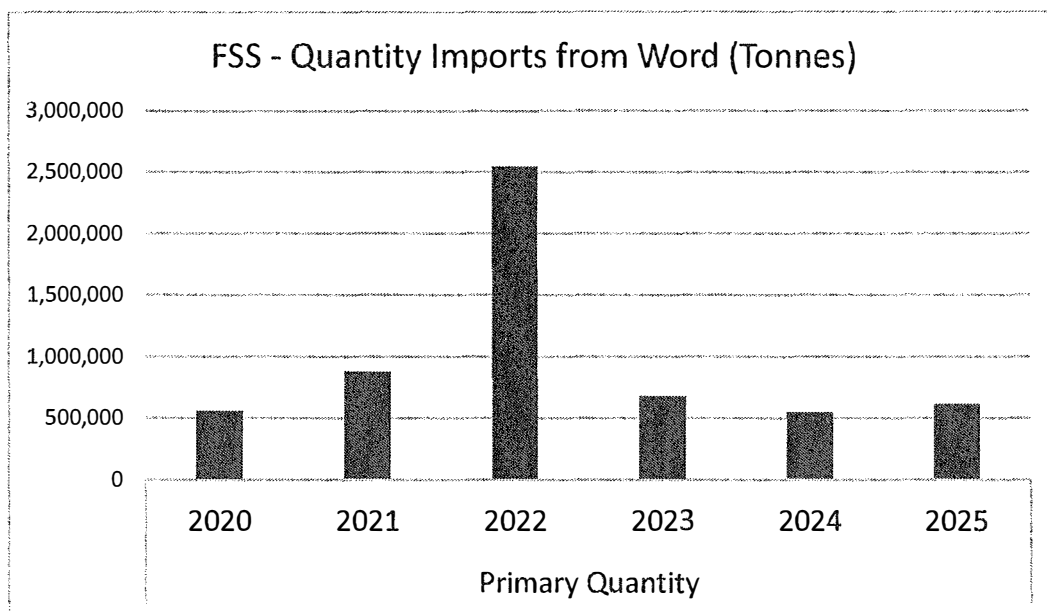
³ Appellate Body Report, *Argentina – Footwear (EC)*, para. 131; Appellate Body Report, *US – Steel Safeguards*, para. 358.

⁴ Panel Report, *Argentina – Footwear (EC)*, para. 130.

i. Absolute imports

The Notification asserts that FSS imports rose 38.7% from 389,169 to 539,649 tonnes between 2020 and 2024. The DFT respectfully submits that this increase does not possess the sudden, sharp, or significant character required under WTO case law. The 2020 baseline was artificially depressed by COVID-19 restrictions and their effects on global trade, shipping, construction, and mining, which are the two principal end-markets for FSS in Australia.⁵ A gradual recovery from a pandemic-era low does not constitute the kind of import surge the safeguards regime was designed to address.

Critically, the Notification itself acknowledges that imports peaked at 483,577 tonnes in 2021 and thereafter "have remained significantly elevated"⁶. Said differently, they have not continued to rise. Global Trade Atlas data on Australian imports of for HS code 730890 and HS code 730810 confirm a clear downward trend: imports from the world into Australia fell sharply between 2021 and 2025. Under *Argentina – Footwear (EC)*, a decline that offsets an earlier increase calls into question the overall finding of increased imports.⁷ That situation exists in the current case:



Source: Global Trade Atlas.

Between 2021-2025, the volume of imports of the products concerned dropped by 30% from 879,617 tons in 2021 to 619,062 tons in 2025. Even though the year 2022 recorded a significant increase to 2,544,991 tons, this was quickly offset in the following year when total volume imported reached no more than 682,483 tons in 2023, which is less than in 2021

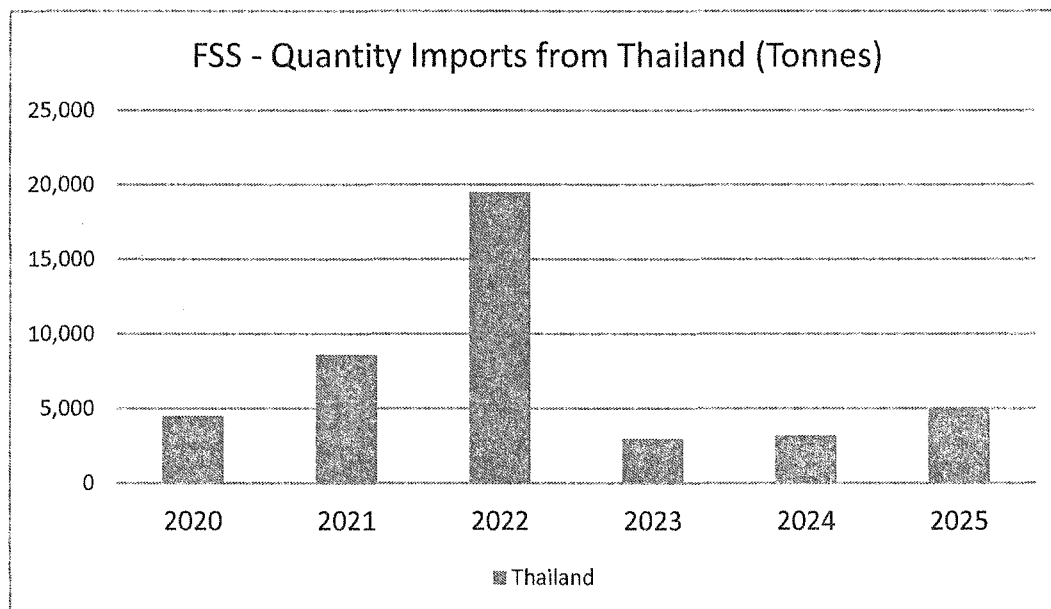
Imports from Thailand of the products concerned classified under HS code 730890 and HS code 730810 have similarly decreased in recent periods and represent a negligible share of total Australian FSS imports. While in 2021 Australia imported 8,626 tons of FSS from Thailand, in 2025, this figure stood at only 5,065, which represents a 42% decrease. The decrease was even more significant in 2024 when just 3,109 tons of FSS was imported from Thailand.

⁵ PC's Call for Submissions, Safeguards inquiry into the import of fabricated structural steel, p. 5.

⁶ Notification of 23 January 2026 to the WTO, p. 2.

⁷ Panel Report, *Argentina – Footwear (EC)*, paras. 8.156-8.157. See also Appellate Body Report, *Argentina – Footwear (EC)*, para. 129, which confirmed the Panel's ruling.

Furthermore, in 2025, Thailand accounted for an insignificant 0.71% of imports under HS 730890 and 1% of total imports under HS codes 730890 and 730810 Combined. Pursuant to Article 9.1 of the SG Agreement, Safeguard measures shall not be applied against products originating in a developing country whose import share does not exceed 3% Given Thailand's minimal share of the Australian FSS market, the DFT respectfully invites the PC to exclude Thailand from any safeguard measures that may ultimately be imposed.



Source: Global Trade Atlas.

ii. Relative imports

An increase in relative imports must be assessed against domestic production, not import volumes alone.⁸ The DFT is unable to conduct a full assessment of relative import levels due to the absence of publicly available domestic production data at this stage, and invites the PC to make such data available in the interests of transparency.

II. Absence of unforeseen developments

Article XIX:1(a) of the GATT 1994 requires that the injury or threat thereof result from "*unforeseen developments*." As held by the Appellate Body in *Korea – Dairy Products (EC)*, the developments that caused the increased imports must have been "*unexpected*."⁹ The Notification identifies "*trade defence measures adopted by third parties*" and "*global overcapacity in steelmaking*" as the relevant unforeseen developments.¹⁰

The DFT submits that neither development meets this threshold. Global steel overcapacity has been recognized and analyzed by institutions such as the OECD Steel Committee and the Global Forum on Steel Excess Capacity for well over a decade. It is neither new nor genuinely unpredictable. Trade diversion resulting from trade defence measures imposed by third countries is equally foreseeable as a matter of commercial and trade policy practice. The DFT respectfully invites the PC to require the Applicant to specifically identify and date the alleged unforeseen developments before drawing any conclusions on this element.

⁸ Panel Report, *US – Large Residential Washers (Korea)*, para. 7.81.

⁹ Appellate Body Report, *Korea – Dairy Products (EC)*, para. 84; Appellate Body Report, *Argentina – Footwear (EC)*, para. 91.

¹⁰ Notification to the WTO, p. 4; Application, p. 2.

III. Lack of serious injury

Under Articles 4.1 and 4.2 of the SG Agreement, a finding of "serious injury" requires objective evidence of a "significant overall impairment" in the position of the domestic industry, assessed across all relevant factors including sales, production, productivity, capacity utilization, profits, and employment. The DFT observes that several publicly available indicators are difficult to reconcile with such a finding.

The Australian FSS industry has grown at an annualized rate of approximately 0.9% over the past five years, with particularly strong growth recorded in 2021–2022 driven by elevated iron ore prices. A growing industry cannot simultaneously suffer significant overall impairment. BlueScope Steel, a major Australian FSS producer, reported an underlying EBIT of A\$718 million and a net profit after tax (NPAT) of A\$439 million for the first half of FY2024 – an increase of A\$29 million on the prior half. Its CEO described the balance sheet as "robust" and expressed confidence in future investment and growth.

In addition, Australian exports of HS 730 890 grew by 17% between 2021-2024 in terms of value and by 13% between 2021-2023 in terms of volume. Data for 2024 is not available. These results are difficult to reconcile with the Applicants' assertion of serious injury to the Australian FSS industry.

The DFT urges the PC to ensure that all statutory injury factors are comprehensively and holistically evaluated, and that applicants provide verified, auditable data across all relevant indicators before any preliminary or final determination is made.

IV. Absence of a causal link

Article 4.2(b) of the SG Agreement imposes two obligations: first, to establish a causal link between increased imports and serious injury; and second, to conduct a non-attribution analysis ensuring that injury caused by factors other than increased imports is not attributed to those imports. As the Appellate Body confirmed in *US – Lamb (New Zealand)*, investigating authorities must "assess appropriately the injurious effects of the other factors, so that those effects may be disentangled from the injurious effects of the increased imports."

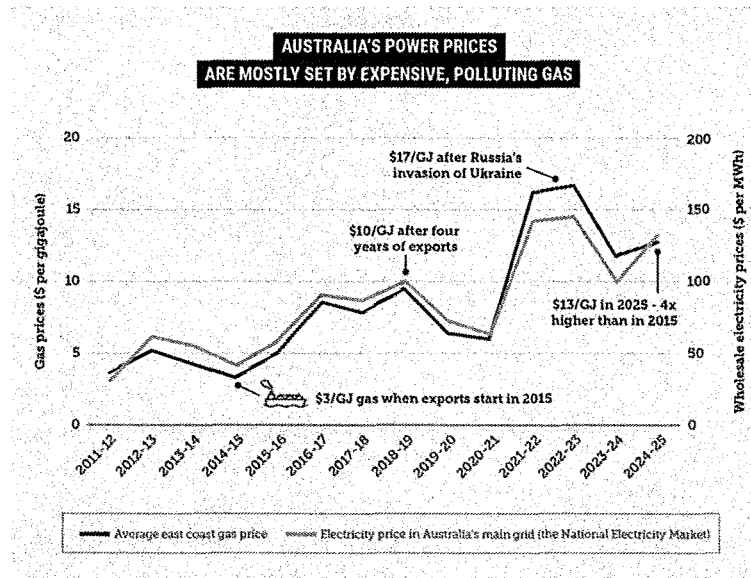
In this case, the Applicant alleges that "Australian production of FSS ... declined about 12% in absolute terms: from 744,000 tonnes in 2023 to 659,000 tonnes in 2024." Yet, as shown by the Global Trade Atlas data, imports of FSS from both the world and Thailand have been falling since 2022. If imports have been declining and the domestic industry is nonetheless injured, the alleged injury cannot logically be attributed to those imports. The Applicant has failed to establish the required causal nexus.

Several other factors independently account for the challenges facing the Australian FSS industry and must be separately assessed under the non-attribution obligation. The DFT provides so below:

i.) Energy is a critical input for steel fabrication. Australian energy costs deteriorated sharply during the investigation period. BHP's CEO recently noted that Australia's electricity costs are "two to three times higher than countries that we are competing with and 50 to 100 per cent higher than the US."¹¹ Gas prices – another key input – rose steeply from 2021 and remained elevated through to the end of 2024.¹²

¹¹Williams, Perry. 'BHP CEO Mike Henry issues warning on high Australian energy costs', *The Australian*, 2025.

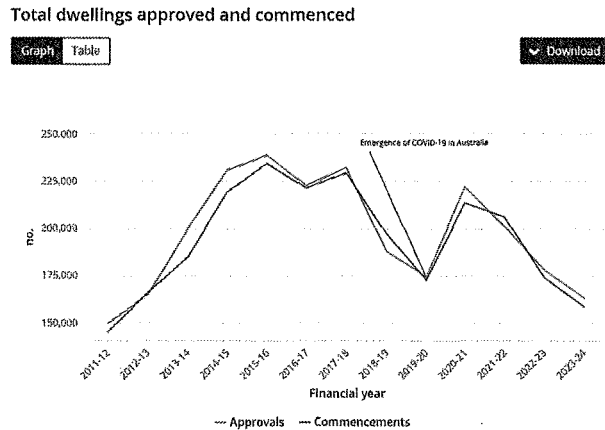
¹²Climate Council, 'Four reasons why your power prices are sky-high and rising' ([report](#)).



Average prices for the financial year. Source: Australian Energy Regulator 2025; gas market prices Open Electricity 2025; based on analysis by Nolan, Gilmore, and Munro 2022.

ii.) Reduced overseas migration from late 2021 created strong demand for construction contractors and tradespeople at a time of constrained supply, driving wages significantly higher across the construction sector.¹³

iii.) The construction sector is one of the two principal consumers of FSS. Dwelling approvals and commencements fell every year from 2021 to 2024. As reported by the Australian Bureau of Statistics, in 2023–24, approvals fell 6.4% below 2019–20 levels to 163,279 dwellings and commencements fell 8.2% to 158,690 dwellings. These account for the lowest figures since 2011–12.¹⁴ The DFT submits that the decline in Australian FSS production correlates directly with this contraction in domestic demand.



Source: Australian Bureau of Statistics.

¹³Australian Bureau of Statistics, 'Insights into output, building construction prices' (<https://www.abs.gov.au/articles/insights-output-building-construction-pricesstudy>).

¹⁴Australian Bureau of Statistics, 'Home building through the pandemic' (study).

V. Australian public interest

The PC's terms of reference explicitly require consideration of whether a safeguard measure would be in Australia's public interest. Fabricated structural steel is a critical input for Australia's construction, mining, and infrastructure sectors. Safeguard measures would raise input costs for these industries, increase project costs, hamper infrastructure delivery, and ultimately harm employment in downstream sectors that are substantially larger than the FSS manufacturing industry itself. Australian developers and project owners benefit from access to a diverse international supply base, and measures restricting that access would impose real and lasting costs on the broader economy.

In view of the foregoing, the DFT respectfully requests that the safeguards investigation be terminated. Should the PC reach a different preliminary conclusion, Thailand requests the opportunity to participate fully in any further proceedings and to be heard on all findings prior to any final determination.

The DFT takes this opportunity to renew the assurances of its highest consideration and remains available for bilateral consultations at any mutually convenient time.

Yours sincerely,

Fabricated structural steel safeguards inquiry
Productivity Commission
GPO Box 1428
Canberra City ACT 2601, Australia