



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

Exemption Inquiry Report: EX0048

Certain Hot Rolled Coil Steel Exported to Australia from Japan, the Republic of Korea, Malaysia and Taiwan

**Applicant:
CITIC Australia Steel Products Pty Ltd**

MARCH 2017

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Abbreviations

Abbreviations	Full reference
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
Applicant	CITIC Australia Steel Products Pty Ltd
BlueScope	BlueScope Steel Limited
CITIC	CITIC Australia Steel Products Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the Act	the <i>Customs Act 1901</i>
the Dumping Duty Act	the <i>Customs Tariff (Anti-Dumping) Act 1975</i>
the duties	interim dumping duty and dumping duty
exemption goods	the goods subject of the inquiry as described in section 3 .3
HRC	hot rolled coil
Korea	the Republic of Korea
Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
REP 188	<i>International Trade Remedies Branch Report No. 188</i>
REP 209	<i>International Trade Remedies Branch Report No. 209</i>
Tariff Act	<i>Customs Tariff Act 1995</i>
TCO	Tariff Concession Order

1. Summary and recommendations

This report sets out the findings of the Anti-Dumping Commission (the Commission) in response to an application by CITIC Australia Steel Products Pty Ltd (CITIC) requesting an exemption from interim dumping duty and dumping duty (the duties) under subsection 8(7)(b) of the *Customs Tariff (Anti-Dumping) Act 1975*¹ (the Dumping Duty Act) in relation to the export of certain hot rolled coil (HRC) steel from Japan, the Republic of Korea (Korea), Malaysia and Taiwan.

This report sets out the Commission's findings upon which the Commissioner of the Anti-Dumping Commission (the Commissioner) relied on to make a recommendation to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)² on whether or not to exempt goods from the duties.

1.1 Application of law to facts

1.1.1 Authority to make the decision

Subsection 8(7) of the Dumping Duty Act sets out, amongst other things, the matters to be considered by the Parliamentary Secretary in deciding whether to exercise their discretion to exempt goods from the duties.

1.1.2 Initiation of inquiry

After examining the application, the Commission initiated an inquiry on 10 November 2016. The details of the initiation are contained in Anti-Dumping Notice (ADN) No. 2016/118.

1.2 Findings and conclusions

The Commission has found that a Tariff Concession Order (TCO) under Part XVA of the *Customs Act 1901* (the Act) is in force in respect of the goods subject to the inquiry (referred to as the 'exemption goods' in this report).

The Commission considers the conditions of subsection 8(7)(b) of the Dumping Duty Act for granting an exemption are satisfied.

1.3 Recommendation

The Commissioner recommends to the Parliamentary Secretary that the exemption goods be exempted from the duties.

¹ All legislative references in this report are to the *Customs Tariff (Anti-Dumping) Act 1975* unless otherwise specified.

² On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this inquiry, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

2. Background

2.1 Original investigation

On 19 November 2012, the then Australian Customs and Border Protection Service (ACBPS) completed an investigation into the alleged dumping of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan.

The then Minister for Home Affairs accepted the Chief Executive Officer of the ACBPS's recommendations which found that HRC from Japan, Korea, Malaysia and Taiwan had been dumped and that the dumping had caused material injury to the Australian industry. A dumping duty notice was published on 20 December 2012.

On 17 July 2013, the rates of dumping duty applying to HRC exported from Japan, Korea, Malaysia and Taiwan were revised by the then Minister for Home Affairs following a reinvestigation by the then ACBPS, the findings of which are outlined in *International Trade Remedies Branch Report No. 209* (REP 209).

ADN No. 2013/49 contains details of the variation of the anti-dumping measures following the recommendations of REP 209.

2.2 Exemption application

On 25 October 2016, CITIC requested an exemption from the duties in relation to its imports of the exemption goods.

CITIC's application outlined the following grounds for an exemption from the duties:

- a TCO, TC1635932, exists to cover the exemption goods; and
- as evidenced by the successful TCO application, the only local domestic producer cannot produce the goods covered by TC1635932.

2.3 Exemption inquiry

The Commission accepted CITIC's application for an exemption of the duties. On 10 November 2016, the Commissioner initiated an inquiry, by publishing ADN No. 2016/118 which advised that an inquiry had been initiated, provided details of the goods subject to the inquiry and outlined the procedures to be followed during the inquiry.

The Commission sent BlueScope Steel Limited (BlueScope), representing the Australian industry, an invitation to respond to CITIC's application on 11 November 2016, by completing the 'Response to Exemption Application' questionnaire and requested that a response be received by 19 December 2016. A completed response from BlueScope was received on 2 February 2017.

BlueScope, stated in its response that it is aware of the TCO applicable to the exemption goods and does not intend to seek its revocation. BlueScope did not oppose the granting of an exemption of the duties in respect of the exemption goods.

2.4 Legislative requirements for an exemption

CITIC has applied for an exemption under subsection 8(7)(b) of the Dumping Duty Act.

Subsection 8(7) provides:

- (7) The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:

...

- (b) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force.

In determining whether a TCO in respect of the exemption goods is in force, regard is given to whether the exemption goods are correctly classified to the tariff heading to which the TCO is linked. Close scrutiny will then be made of the terms of the TCO to ensure that the exemption goods meet each of those terms. If the exemption goods do more than what is described in the TCO, but otherwise meet its terms and are classified correctly to the tariff heading to which the TCO is linked, legal authority supports the eligibility of those particular goods for that TCO.³

CITIC requests that the Parliamentary Secretary exercise their discretion to exempt the exemption goods from the duties on the basis that a TCO under Part XVA of the Act in respect of the exemption goods is in force.

³ *Robert Bosch Australia Pty Ltd v Collector of Customs*, AAT, 29 August 1986; *Re Klockner Moeller Pty Ltd v Collector of Customs*, AAT, 18 January 1989.

3. The anti-dumping measures and exemption goods

3.1 The goods subject to anti-dumping measures

The goods exported from Japan, Korea, Malaysia and Taiwan, covered by the anti-dumping measures (in the form of a dumping duty notice) are:

“Hot rolled coil (including in sheet form), a flat rolled product of iron or non-alloy steel, not clad, plated or coated (other than oil coated).”

Hot rolled products that have patterns in relief (known as checker plate) and plate products. Hot rolled sheet that is 3/16th of an inch (4.75 mm) thick or more is considered to be plate and is therefore excluded.

3.2 Tariff classification

The goods subject to measures may be classified under the following subheadings in Schedule 3 of the *Customs Tariff Act 1995* (the Tariff Act):

- 7208.25.00;
- 7208.26.00;
- 7208.27.00;
- 7208.36.00;
- 7208.37.00;
- 7208.38.00;
- 7208.39.00;
- 7208.53.00;
- 7208.54.00;
- 7208.90.00;
- 7211.14.00; or
- 7211.19.00.

3.3 The exemption goods

The goods subject to the application for exemption are:

Certain HRC meeting the specific characteristics covered by TC1635932. The goods covered by TC1635932 are:⁴

Coils, non-alloy steel, hot rolled, complying with Australian/New Zealand Standard AS/NZS 1594:2002 Grade HA1010, having ALL of the following:

- (a) *thickness not less than 2.48 mm and not greater than 2.52 mm;*
- (b) *width not less than 1 640 mm and not greater than 1 680 mm;*
- (c) *weight not less than 6 000 kg and not greater than 13 000 kg;*
- (d) *chemical composition by weight of all of the following:*
 - (i) *carbon content not less than 0.08% and not greater than 0.13%;*
 - (ii) *silicon content not greater than 0.03%;*
 - (iii) *manganese content not less than 0.3% and not greater than 0.6%;*
 - (iv) *phosphorus content not greater than 0.04%;*

⁴ TC 1635932 is available at <http://www.border.gov.au/Tariffclassificationofgoods/Documents/16-40-19-oct-2016.pdf>

- (v) *sulphur content not greater than 0.03%;*
- (vi) *aluminium content not greater than 0.10%; and*
- (vii) *titanium content not greater than 0.04%.*

The exemption goods are classified to the tariff subheading 7208.39.00 (statistical code 38) of Schedule 3 to the Tariff Act.

4. Goods subject to TCO

4.1 Assessment

The Commission has found that, on 19 October 2016, the decision to grant tariff concession TC1635932 was published in the Commonwealth of Australia Tariff Concessions Gazette No. TC16/40. TC1635932 is operative from 21 July 2016 and refers to HRC corresponding to tariff classification 7208.39.00. The exemption goods as described in section 3.3 are covered by the TC1635932 because the exemption goods have the exact same specifications as TC1635932.

Accordingly, the conditions for granting an exemption are satisfied.

4.2 Conclusion

The Commission recommends that the Parliamentary Secretary exempt the exemption goods from the duties, under subsection 8(7)(b) of the Dumping Duty Act on the basis that a TCO in respect of the exemption goods is in force.

4.3 Effective date of exemption

CITIC's application for exemption, examined in this report, was made on 25 October 2016.

The timing in relation to the granting of an exemption is at the discretion of the Parliamentary Secretary. Subsection 8(8A) of the Dumping Duty Act provides that if an exemption is given because of an application for exemption, then the date of effect must not be earlier than the day the application is made. The Commission recommends that the exemption is backdated to the date of the application, that is, to 25 October 2016.

5. Attachments

Attachments	Confidentiality	Title	Electronic public record identifier
Attachment 1	Not confidential	Application	001
Attachment 2	Not confidential	Australian industry questionnaire response	003