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Director Operations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001

**Investigation into hollow structural sections exported from the
United Arab Emirates**

Dear Director,

This submission is made on behalf of Universal Tube and Pipe Industries Ltd (UTP Jebel Ali) in response to the applicant's submission of 30 March 2016.

In its submission, the applicant outlines its view of an adjustment claim by UTP Jebel Ali relating to Customs duty payable on domestic sales. The applicant appears to understand that the nature of the claimed adjustment is based on a drawback of duty incurred on imports of hot-rolled coil (HRC). On that basis, it references the findings of the recent dumping investigation into HSS exported from Thailand by Saha Thai, and in particular the relevant evidentiary standards for demonstrating that a general drawback of duty on imported HRC affects comparability of domestic and export selling prices.

Firstly, UTP Jebel Ali is confused by the applicant's understanding of the adjustment claim. The relevant section of the UTP exporter questionnaire response makes no mention or reference to a drawback of duties or duties payable on HRC. As clearly stated in the questionnaire response, *"for goods produced by UTP which are then sold to domestic customers located outside of the JAFZ, the normal 5% Customs duty is payable on the domestic invoice value."* It is apparent then that the applicant has misunderstood the basis of the adjustment claim being made by UTP Jebel Ali, and as such, the outlined circumstances of the duty drawback claim made by Saha Thai in Investigation No. 254 has no relevance in this case.

Instead, the Commission's exporter questionnaire¹ properly outlines the need for a downward adjustment to domestic sales where taxes and duties are incurred on those relevant domestic sales.

2. Import charges and indirect taxes

If exports to Australia:

- are partially or fully exempt from internal taxes and duties that are borne by the like goods in domestic sales (or on the materials and components physically incorporated in the goods), or

- if such internal taxes and duties have been paid and are later remitted upon exportation to Australia;

the price of like goods must be adjusted downwards by the amount of the taxes and duties. The taxes and duties include sales, excise, turnover, value added, franchise, stamp, transfer, border, and excise taxes. Direct taxes such as corporate income tax are not included as such taxes do not apply to the transactions.

This is further supported by the Commission's Dumping and Subsidy Manual² which succinctly highlights the need for a downward adjustment for taxes and duties incurred on domestic sales:

Differences in taxes

Downward adjustments are made to domestic prices if any taxes or duties on those goods (including taxes or duties on materials or components incorporated in the goods) are not included in the price of the exported goods because of remissions, refunds or exemptions.

In the case of UTP Jebel Ali's domestic sales, it incurs a 5% Customs duty on domestic sales. The Customs duty is payable on each delivery exiting the Jebel Ali Free Zone, with a separate Customs declaration required for each invoice made to each individual domestic customer. No such duty is payable on its exports to Australia.

As demonstrated to the Commission during its exporter verification visit, a complete listing of actual Customs duty paid against each domestic invoice was reconciled to source Customs declarations. This demonstrates that the Customs duty payable by UTP Jebel Ali on each specific domestic invoice is a direct selling expense, and as such, incorporated into the corresponding domestic selling prices. In essence, the Customs duty paid on these individual domestic transactions is a selling expense

¹ EPR 320, Record no. 008, pages 32-33.

² Dumping and Subsidy Manual - November 2015, page 62.

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which ought to be adjusted in the same way that domestic and export sales are adjusted for other direct selling expenses such as domestic and export inland freight expenses, domestic and export commission expenses, export port charges, export ocean freight, etc.

Yours sincerely

John Bracic