

CLAYTON UTZ

Sydney Melbourne Brisbane Perth Canberra Darwin Hung Kong

Mr John Bracic
Director, Operations 1
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
CANBERRA ACT 2600

13 August 2012

Our ref 11276/80133959

Dear Mr Bracic

Hot rolled coil steel exported from the Republic of Korea, Taiwan, Japan and Malaysia

We refer to your letter dated 6 August 2012.

While Customs has stated that it considers our client's exporter questionnaire response to be incomplete and our client "*non-cooperative*", we note that:

- (a) in our letter to you dated 8 August 2012, we acknowledged that our client did not submit a *fully compliant* exporter questionnaire response. This was so because the cost of full compliance (which would necessitate a 2-4 day visit to our client and occupy the attendance of senior accounting, legal and other staff) is too time consuming, burdensome and expensive. Notwithstanding this indisputable fact, and given the limited number of importers with whom our client deals and its limited export volumes to Australia, our client:
- (i) submitted to Customs all export information necessary for its assessment;
 - (ii) believes, entirely correctly in our opinion, that the information it has provided can be referenced and checked against data:
 - A. available to Customs from its own records or those which it can easily and readily obtain; and
 - B. that has been made available to Customs by the two Australian companies with whom our client transacts and who are fully co-operating with Customs;
- (b) the reason why the export and sales data was submitted in the form that it was by our client is that the style and format of the exporter questionnaire response was eminently suitable for the presentation of our clients export and sales data - after all the layout and format was one that was sanctioned by Customs;
- (c) you refer to our client as an *interested party*. It would follow therefore that our client's response can and should be treated as a submission;

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- (d) the Anti-dumping Agreement and the *Customs Act 1901* (Cth) do not permit Customs to "*disregard information contained in the questionnaire response*", nor can it disregard a submission from an interested party;
- (e) paragraph 3 of Annex II (Article 6.8) of the Anti-dumping Agreement states that all information which is reasonably verifiable and supplied in a timely fashion should be taken into account when making determinations (our emphasis);
- (f) as stated above, Customs is being assisted by the two Australian trading companies with whom our client transacts. Since those companies are fully participating in the verification process, Customs is able to verify the export data information provided by our client. In this way the information contained in the exporter questionnaire response is *verifiable*; and
- (g) finally, our client is ready and willing to subject itself to a desk audit.

Our client submits that Customs is legally obliged to consider its export volume and price information (and all other submissions made and information provided by our client) when Customs comes to make its determination in connection with both injury and causation. Our client is confident that the evidence it has provided, assessed against other verified information obtained, will show that its export price is well above the non-injurious price.

Yours sincerely

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