



Australian Government
Australian Customs and
Border Protection Service

PUBLIC FILE
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Customs House
5 Constitution Ave
Canberra
ACT 2601

Mr Merton Howard
Howard Consulting Pty Ltd
PO Box 4303
GEELONG VIC 3220

By email

Dear Mr Howard,

**INVESTIGATION INTO THE ALLEGED DUMPING OF
HOLLOW STRUCTURAL SECTIONS (HSS) EXPORTED FROM THE PEOPLE'S
REPUBLIC OF CHINA (CHINA), THE REPUBLIC OF KOREA (KOREA), MALAYSIA,
TAIWAN AND THE KINGDOM OF THAILAND (THAILAND)**

AND

**INVESTIGATION INTO THE ALLEGED SUBSIDISATION OF
HSS EXPORTED FROM CHINA**

I refer to your letter of 14 May 2012 that offers a price undertaking, in terms of subsection 269TEB(1) of the *Customs Act 1901* (the Act), in relation to your client, Qingdao Xiangxing Steel Pipe Co Ltd (Qingdao Xiangxing).

The legislation requires that the exporter indicate in writing to the CEO of Customs and Border Protection the terms in which the exporter would be prepared to give an undertaking to the Minister. It seems your letter is proposing to offer a price undertaking at a price level that is based on a constructed normal value, and that such constructed normal value should be calculated with reference to a different cost of hot rolled coil (HRC) to the one used by Customs and Border Protection in the constructed normal values discussed in the statement of essential facts (SEF).

I have considered the Qingdao Xiangxing price undertaking offer and I am not satisfied, in terms of subsection 269TEB(2) of the Act, that the price undertaking terms are adequate to remove the injury to which the application is addressed so far as the exporter is concerned.

My reasons for being not so satisfied include:

- it is not clear what terms (including price level, currency, delivery terms, credit terms) are being offered for the price undertaking;
- the approach to constructed normal value used as a basis for the price undertaking offer is not consistent with the approach taken by Customs and

Border Protection in SEF 177, and insufficient explanation is provided as to why the different approach is reasonable;

- it is not clear how the price undertaking offer is adequate to remove the injury to the Australian HSS industry that is caused by dumping.

Subsection 269TEB(3) of the Act provides that the exporter may, having regard to these reasons, indicate to the CEO of Customs and Border Protection that Qingdao Xiangxing is prepared to give an undertaking in revised terms. Subsection 269TEB(4) of the Act requires that where an undertaking in revised terms is proposed, the CEO must:

- if not satisfied that the undertaking as so revised is adequate to remove the injury to which the application is addressed - inform the exporter to that effect; and
- if satisfied - recommend to the Minister that the Minister accept the undertaking as revised.

Please do not hesitate to contact me if you have any questions regarding this matter.

Sincerely



Geoff Gleeson
Director, Operations 3
International Trade Remedies Branch

4 June 2012