

PUBLIC RECORD VERSION

The Director, Investigations 1,
Anti-Dumping Commission,
GPO Box 2013,
CANBERRA ACT 2601,
AUSTRALIA.

By Email: investigations1@adcommission.gov.au
18th August 2020.

EXEMPTION INQUIRY No 0079
Anti-Dumping Notice No 2020/84
ERW Hot Dipped Galvanised Shouldered Pipes
Infrabuild trading Pty Ltd.

Dear Director,

This submission is forwarded on behalf of the Australian importer of ERW Hot Dipped Galvanized steel pipes thyssenkrupp Materials Trading Pty Ltd (TKM) and is in response to the abovementioned Exemption Inquiry No 0079.

We strongly oppose this application for exemption on the basis that the applicant is effectively seeking from the Commission the privilege of being a preferential importer of goods that have been subject to current anti-dumping measures since June 2012 and which, in our view, would bestow to the applicant an exclusive unfair competitive market advantage. Whilst we accept the applicant's entitlement to seek an exemption our view is also based on the fact that the applicant, formerly Liberty Onesteel Trading Pty. Ltd, is part of the wider Infrabuild Group of entities that also includes the major domestic ERW steel pipe and tube producer Austube Mills (ATM) and given the V.I.P. stakeholder status the Infrabuild Group has with the Commission we are concerned that both the integrity of Australia's anti-dumping system and the consistency of the Commission's treatment on other, previous, relevant exemption applications will be sorely tested.

What needs to be understood about this application for exemption is that the subject goods are imported from the China based exporter/producer [REDACTED] (name) whose exports have been subject to anti-dumping measures since Report No 177 of June 2012 and which are currently subject to the combination method of a fixed rate of [REDACTED] % IDD and a variable rate based on the AEP.

Of critical importance also is the identification and classification of those imported goods, and clearly those goods are identified as being ERW Hot Dipped Galvanized steel circular pipes that are classified to Customs Tariff subitem 7306.30.00 capturing 'other pipe' being goods which remain subject to measures originally imposed from Report No 177 and which were continued on the basis of Report No 379 until July 2022.

Background to this Application;

The one word that could explain this application is 'BANG'; 'BANG' (both feet) in that based on what we consider to be reliable information and which also provides a commercial motivation for this 'Infrabuild' application is the understanding that the imported subject goods were previously being classified for Customs clearance purposes as 'Line pipe of a kind used for oil and gas pipelines' under Customs Tariff subheading 7306.1- being goods Exempt from any dumping measures and presumably on the basis that the steel material grade used to make the Hot Dipped Galvanized pipe is API 5L Grade B PSL 1. It is also our understanding that the 'Infrabuild' /Liberty Steel Group was party to a non-government group that made submissions on anti-circumvention which most likely 'initiated' an Australian Government Department of Home Affairs Tariff Classification guideline on what constitutes 'Line pipe' of 7306.1.

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That ‘Guide’ specifically stated , inter alia , :-

‘Galvanised pipe however, is not commonly, if ever, used in oil or gas pipelines. The zinc coating would compromise the pipe and also prevents effective welding of joints. Therefore, galvanised pipe is not line pipe used in oil or gas pipelines nor of the class or kind used for oil or gas pipelines.

Galvanized pipe is not classifiable as line pipe of a kind used in oil or gas pipelines regardless of the standard of manufacture. This is supported by the US Customs and Border protection decision HQ954256 , with which the Department agrees’

As a consequence therefore not only can the subject goods no longer be classified as Line pipe of 7306.1. they must be classified as ‘Other welded pipe’ of 7306. 30 00 which are captured by the anti-dumping measures previously referred to, but importantly the most relevant factor excluding the subject goods from 73 06 1 is their Hot Dipped Galvanised coating .

CONCLUSION:

Based on the Tariff Classification Guide issued by the Department of Home Affairs our firm contention in terms of identifying the subject goods for classification purposes is that the most defining characteristic of the subject goods is their Hot Dipped Galvanised coating and given the fact the Commission has previously rejected applications for exemption based on the subject imported goods being Hot Dipped Galvanised pipe of 706 30 00, the Commission for reasons including, but not limited to, consistency of treatment ,in our view must also reject this ‘Infrabuild’ application.

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 COMMISSION’S Previous Rejections on Subject goods:

Detail-References	Date of ADC rejection	‘Applicant’	Imported Goods
Exemption App 0015	March 2015 Orrcon stated it did not produce HDG pipes ATM claimed to make HDG pipes	Kasia Nominees	HDG pipes of 7306 30
Exemption App 0042	October 2016 ATM claimed to make	Hi-Vis Signs & Safety	HDG Pipes of 7306.30
Report No 379 Para 5.4.5 Para 5.5	June 2017 ADC ‘ruled’ on ‘like Goods’ basis	Tainjin Youfa Group China exporter	HDG Pipes of 7306 30

.APPLICANT’S DESCRIPTION of EXEMPTION GOODS

No	Goods description	Comments
1	ERW Hot Dipped Galvanised Shouldered Pipe	The critical factor is the pipe being Hot Dipped Galvanised-Shouldered end is considered to be irrelevant in terms of identification as ‘roll grooved, ‘cut grooved’, ‘threaded’ and ‘plain’ ends are all subject to current measures
2	Grade & standard	The pipe does not need to be produced from API 5 L steel grade The pipe can be produced from grade 240 MPa in accord with AS 1074 which provides for hydrotesting or other similar grades eg; ASTM A 53
3	Welding of rings	Does not change the identification of the pipe being Hot Dipped Galvanised
4	Zinc coating of 300g/m2	Zinc Coating thickness of 300g/m2 further enhances the goods being Identified as Hot Dipped Galvanised Pipe, and not Shouldered pipe
5	Outer Diameter	Application only appears to specify one size -O/D 165.1mm

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APPLICANT'S DETAILED STATEMENT :

No	Characteristic	Comments
1	Shouldered pipe is currently not produced in Australia	The consideration is not about whether shouldered pipe is locally produced BUT whether Hot Dipped Galvanised pipe is currently produced by Orrcon, ATM ,& APT
2	Commercial Likeness	Seems to assert that locally produced pipe is not suitable for the intended end- use application for reasons including the cost to make being uncompetitive and no local Hot Dipped Galvanised capability
3	Functional Likeness	States that the domestically produced galvanised pipe is fit for purpose including the lack of shoulder rings and simply reinforces the need for Hot Dipped Galvanising coating of 300g/m ² because of the welding process
4	Production Likeness	Refers to need for stringent testing procedures such as hydrostatically tests required for 'pressure pipes' but our understanding is that the eddy current testing is also specified for pipe that satisfies AS 1074 In it's previous life of circa 10 years ago, ATM did produce a similar product .

Summary:

We respectfully submit that the very basis of the 'Infrabuild' application for exemption of this Hot Dipped Galvanised pipe is the avoidance of having to pay interim dumping duties and that the Commission should reject the application as it has on previous other applications involving ERW Hot Dipped Galvanised steel pipes.

Please contact the writer should the Commission require further information in support of this request

Regards

M J Howard