



30 September 2020

The Director, Investigations 1
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AUSTRALIA

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Dear Director,

Exemption Inquiry No. 0079 concerning Hollow Structural Sections Exported to Australia from the People's Republic of China, the Republic of Korea, Malaysia, Taiwan and the Kingdom of Thailand

The applicant to the Exemption Inquiry, InfraBuild Trading Pty Ltd (trading as **InfraBuild Steel Centre**) offers the following response to matters raised in the industry questionnaire¹ completed by Orrcon Manufacturing Pty Ltd (**Orrcon**).

Identical goods or Like or Directly Competitive Goods

The *Customs Tariff (Anti-Dumping) Act 1975* permits, pursuant to subsection 8(7)(a), that the Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty, and pursuant to subsection 10(8)(a), exempt goods from interim countervailing duty or countervailing duty, if he or she is satisfied that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

Despite significant levels of redaction applied to various parts of their questionnaire response, Orrcon have clearly articulated that they are not a producer of identical or like or directly competitive goods:

C.1 *Does your company produce, in Australia, goods that are identical in all respects to the goods described in section 5 of this 'Response to Exemption Form'?*

Orrcon response: NO

D.1 *If your company does not produce identical goods, does it produce and sell in Australia goods that are like or directly competitive to the goods subject to this application for exemption?*

Orrcon response: NO [redacted]

¹ EPR - EX0079/003

Capability to Produce Identical or Like or Directly Competitive Products

Orrcon has indicated “Yes” to the question of capability to produce identical or like or directly competitive products and present the goods they consider capable of meeting the “like or directly competitive product” requirements as follows:

The product is steel pipe with the following properties and dimensions:

- 150 millimeter (“mm”) Nominal Bore (“NB”), with nominal outer diameter of 165.1mm at 3.0mm wall thickness.
- AS1074 and/or AS/NZS 1163 compliant – in steel grades C250 and C350.
- The product is then shouldered with a welded ring and hot-dip galvanized.

*When the dimensional tolerances are applied to the exemption goods, **they become the same as the above product.***² [emphasis added]

With respect, the goods described by Orrcon do not “become the same” as the exemption goods when dimensional tolerances are applied.

The exemption goods are specified as having a 2.5mm wall thickness with a tolerance of plus or minus 0.32mm. The Orrcon goods described above have a wall thickness of 3.0mm with a tolerance of $\pm 10\%$ as per their National Product Catalogue³. The 3.3mm permitted upper tolerance on wall thickness for the Orrcon Product well exceeds the 2.82mm upper tolerance specified for the exemption goods.

For the exemption goods, both the pipe and the shoulder ring are produced and certified to meet the requirements of API 5L Grade B (PSL 1), a completely different Standard to AS1074 and/or AS/NZS 1163. Evidence of the API 5L certification by the exporting mill is provided as CONFIDENTIAL ATTACHMENT 1.

Orrcon expresses further concern with regards to the size requirements of the exemption goods and the ability of the Australian Border Force to verify the exemption goods:

The pipe size specified (sic) in the application is not a standard API 5L pipe size. As a non-standard API 5L pipe size it is therefore outside the scope of API 5L. Therefore, by definition of the goods, there is no guarantee or feasible way for Border Force to assess whether incoming goods comply to this specification and API 5L and/or have been manufactured by an API certified mill. [emphasis added]

These claims by Orrcon are incorrect. The exemption goods’ pipe size specification is well within the latest API 5L Standard (46th Edition, April 2018) ‘Permissible Specified Outside Diameter and

² EPR-EX0079/003 at p9

³ <https://www.orrconsteel.com.au/resources/catalogues/national-product-catalogue> at p12

Specified Wall Thickness' requirements for 'Special light size pipe'. Refer CONFIDENTIAL ATTACHMENT 2.

In 2011, the galvanizing baths and equipment used for shoulder pipe production was decommissioned by Austube Mills. This effectively halted domestically produced supply of galvanized light-walled shouldered pipe for underground mining pipelines in Australia. The Austube Mills product, [REDACTED]

[REDACTED] The wall thickness of the [REDACTED] pipe, for a 165.1mm outer diameter pipe, was specified as 2.5mm, that is, the same as the exemption goods. The mines' requirement for a light-walled, and by extension light-weight, pipe that can readily be handled underground has been an important consideration making domestically produced AS1074 pipe or AS/NZS 1163 pipe unsuitable for the application.⁴ Both of these standards specify a greater wall thickness for the relevant outer diameter – refer CONFIDENTIAL Attachments 5 and 6. InfraBuild Steel Centre has worked with their mining customers to understand their concerns with the imported product that a number of mines have been using for this application since [REDACTED] pipe supply ceased ie. [REDACTED]

[REDACTED]⁵ [REDACTED] The supply of the exemption goods by InfraBuild Steel Centre provided the necessary light wall requirement for ease of handling underground, without a leak-prone [REDACTED], and the assurance that the API 5L Standard provides regarding requirements for hydrostatic testing applied to each length of pipe. A number of InfraBuild Steel's mining customers have either [REDACTED] API 5L exemption goods for underground pipeline applications⁶.

The API 5L certification validity of the exporting mill (a further concern expressed by Orrcon) is also readily verified on the API website⁷. The manufacturer from which InfraBuild Steel Centre sources these exemption goods has a valid certificate from the American Petroleum Institute for the production of API5L pipe and has held certification since [REDACTED].

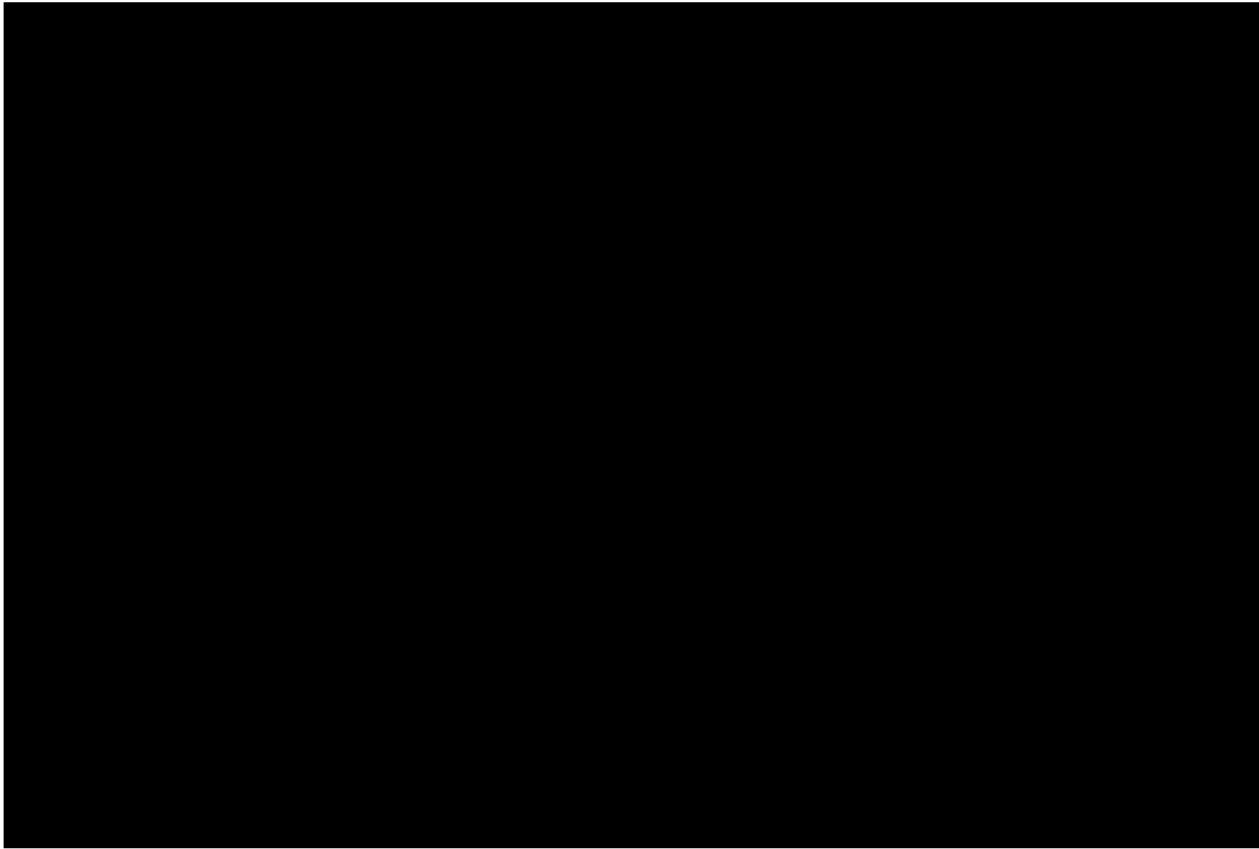
⁴ CONFIDENTIAL ATTACHMENT 4

⁵ CONFIDENTIAL ATTACHMENT 7

⁶ CONFIDENTIAL ATTACHMENTS 8 & 9

⁷ <https://mycerts.api.org/Search/CompositeSearch>

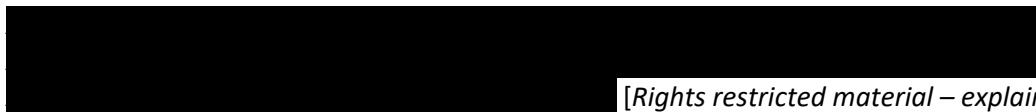
CONFIDENTIAL Exhibit: Exporting Mill certification to produce API5L pipe





Orrcon raises further concerns around the galvanizing process claiming:

*'all evidence of product marking is removed which removes traceable details of the API5L mill. It will therefore be close to impossible for Border Force to determine whether the imported goods actually and wholly comply with the specifications outlined in the exemption.'*⁸


Again, these concerns are unfounded. The API5L standard permits⁹:



[Rights restricted material – explains traceability where product subsequently coated]

In keeping with the permissible Standard requirements, the exemption goods are marked with a non-permanent ink following the galvanizing process. Refer CONFIDENTIAL ATTACHMENT 10 which shows the . These markings correspond to the  (CONFIDENTIAL ATTACHMENT 1), thereby ensuring traceability is maintained and the product is readily verifiable by Australian Border Force officers.

⁸ EPR-EX0079/003 at p11

⁹ API 5L 46th Edition, April 2018 at 

Orrcon further appears to suggest that through this exemption application InfraBuild Steel Centre is attempting to get the exemption goods (currently classified as hollow structural sections) reclassified as 'Line Pipe of a Kind Used for Oil or Gas Pipelines'. The Border Force Tariff Classification Guide on Line Pipe of a Kind Used for Oil or Gas Pipelines is cited by Orrcon:

Border Force have previously noted issues with API 5L line pipe and has clearly made the distinction that hot dip galvanizing is entirely inconsistent with line pipe pressure applications, refer page 7 - Coatings: Tariff Classification Guide on Line Pipe of a Kind Used for Oil or Gas Pipelines.

It is not InfraBuild Steel Centre's contention that these exemption goods ought to be reclassified as Line Pipe of a Kind used for Oil or Gas Pipelines. Both the galvanized coating and the length of the exemption goods (6 to 6.5m) do not permit such a classification to be made.

The only objective of InfraBuild Steel Centre here is to seek an exemption from the current dumping and countervailing duties that apply to imports of these goods while a like or directly competitive option is not currently manufactured and offered for sale domestically. Orrcon have indicated they have 'quoted, supplied and sold a parcel of shouldered pipe', demonstrating 'capability for local supply to fabricate and galvanise pipe' and have pursued a 'number of subsequent opportunities'. It remains unclear:

- to what specification this parcel of shouldered, galvanized goods were made;
- whether the 'subsequent opportunities' pursued by Orrcon yielded any additional sales; and
- whether they are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

Sustainable supply of these exemption goods is required by sectors of the mining industry that values the peace of mind that the additional testing processes applied to the API 5L product provides for the pipe's application in an underground setting.

FOR AND ON BEHALF OF THE IMPORTER

INFRABUILD STEEL CENTRE