

05th May 2021

The Commission

Anti-Dumping Commission

GPO Box 1632

Melbourne, Vic., 3001

By Email: clientsupport@adcommission.gov.au

Non-Confidential

Re: Additional submission re Exemption Case 00080

Dear Commissioner,

VoxGroup Pty Ltd trading as VoxTrade hereby provide an additional submission in relation to the claims made by Williams Mining & Industrial Sales Pty Ltd dated the 04th May 2021.

It must be initially noted that the submission by Williams Mining & Industrial Sales (WMIS) was made outside the original timelines for lodgement as stated in the Anti-Dumping Notice no. 2021/39. Our first request would be based on this detail alone the submission should be discounted.

The second issue we have in relation to this submission is that WMIS in their submission state they are an Australian Manufacturer of the hot dip galvanised (HDG) Steel conduits in their Woodville North facility.

It is our contention this is in fact not correct and they do not manufacture the items in their facility.

Historically the issue of Hollow Structural Sections (HSS) of steel being ascertained as dumping into Australia has been subject to no less than 26 separate matters undertaken by the ADC and prior to that Australian Border Force and their previous departmental names.

It must be notes in all subsequent matters WMIS has not been noted or identified as an Australian industry participant nor an Australian producer or manufacturer other than the previous exemption submission by JG Thomas (EX0064).



The Australian Industry for HSS has been well established in these investigations as being Orrcon, Austube Mills and their subsidiaries. As requested by the ADC we have contacted these companies for their input on the manufacture and supply of this product. The correspondence was provided to the ADC accordingly.

We do not contend that WMIS supply the conduit to the industry and as such could produce the invoices as they have contended. We would contend however that the products in question are not manufactured or produced in Australia.

It is our understanding that the HSS supplied by WMIS is may possibly be imported and the only process completed in their premises is the threading of the end of the tube and the attachment of a coupling which is also made overseas.

Therefore to claim they are Australian producer or manufacturer of HSS is factually incorrect.

It is important to note that the facility at Woodville North, which WMIS claim to manufacture HSS, is a small premises without the size, scope and scale to manufacture HSS. As a comparison the ADC could look at the size of the Orrcon and Austube Mills facilities that are recognised as part of the Australian industry and determine that there can be no comparison.

WMIS does not have the footprint, let alone the expertise to manufacture or produce the HSS as they claim.

There are a number of provisions within the Customs Act 1901 (The Act) which assist us in defining the term Australian Industry.

Section 269(1) provides the definition of Like goods. It states:

like goods, in relation to goods under consideration, means goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Section 269T(4) states

For the purposes of this Part, if, in relation to goods of a particular kind, there is a person or there are persons who produce like goods in Australia:

(a) there is an Australian industry in respect of those like goods; and

(b) subject to subsection (4A), the industry consists of that person or those persons.

The Australian industry, as we outlined earlier, has been well established for HSS as having a small number of local manufacturers. This industry has been well defined by the ADC over the previous 10 years and during all of these investigations WMIS has not been included as a manufacturer or producer of HSS let alone producing a very specific type of HSS.



The assertion by WMIS that they are now part of the Australian Industry and manufacture or produce like goods, based on the above definitions is not correct.

WMIS, by lodging their submission are asserting they should be subsequently protected by the ADC is not supported by current or historical facts.

That both Orrcon and Austube Mills (Infrabuild) have confirmed the tubes covered by the exemption request are not manufactured by those companies is further evidence the goods are not manufactured or produced locally.

The Act provides a definition of “goods produced in Australia” which gives some guidelines as to the approach by this Act. There can be no doubt this is a wider definition than what applies to the relevant anti-dumping provisions however it outlines in Section 269D that goods must have undergone a substantial process in the manufacturing to be considered “goods produced in Australia”.

In the case of WMIS they receive the HSS – the conduit, which is possibly imported, they put a thread on it and then attach a coupling which is also imported. Based on the definition in The Act, the simple assembly of two imported items cannot be considered manufactured or produced in Australia.

Whilst this provision relates to the processing of Tariff Concession Orders (TCO) it also gives insight into the construction of the legislation and the attempts to make certain that only goods genuinely manufactured or produced in Australia should benefit from a TCO. It therefore extrapolates through to other areas of The Act to all us further guidance in relation to goods produced in Australia.

If the goods outlined by WMIS are manufactured or produced in Australia we request they comply with the requirements of the Act and present evidence accordingly. We don't dispute WMIS supply the goods, although a product which is vastly inferior, we do dispute they manufacture or produce the goods locally.

Within the previous exemption investigation by the ADC Exemption Inquiry No.0064, BlueScope Steel Ltd on behalf of Orrcon Manufacturing Pty Ltd (Orrcon) opposed the exemption on the basis that Orrcon produced the conduit tube which was supplied to WMIS. It was also outlined that WMIS undertakes the tube threading and sells the product locally.

The decision by the ADC was that Orrcon supplied the Australian manufactured tubing to WMIS which then sold this tubing, after threading, to the Australian Market. Based on this process there was an Australian manufacturer of like goods.

Our contention is in essence the WMIS process has not changed. The only local process undertaken is the threading of the tube. Orrcon were approached to supply the conduit and they declined to supply instead referring our client to WMIS.



At this stage of the exemption process Orrcon, as far as the EPR shows, has not submitted an objection to the exemption. The inference from this is that Orrcon are no longer supplying WMIS the conduit tube and therefore are not objecting to the exemption being granted.

WMIS has not stated the HSS, being the conduit tubing, is currently supplied by Orrcon nor are they stating the HSS is manufactured in Australia. What they have contended is they sell the goods locally to the local market. This is a material difference to the previous exemption enquiry. The previous enquiry found the goods were “wholly produced in Australia: the steel by Orrcon and the threaded end product by Williams Mining”.

It is of note in the WMIS submission they have specifically excluded the information on where the tubing or the initial conduit is sourced. This would appear to be a direct effort to deflect away from the source of the tubing as this was very prominent in the previous exemption investigation.

As a third and final point, we provided evidence where WMIS were contacted to supply this product to an affiliate of our client. The WMIS representative forwarded this query to a third company, who we are unsure of their association, to look at possibly supplying the goods.

In the time available we have not been able to assess the relationship nor details of these companies however contend that it may actually not be WMIS that are selling these goods domestically but another company further down their supply chain.

Again another fact which would outline that the result of Exemption Inquiry No.0064, whilst correct at the time, may no longer be relied upon as the facts and circumstances have changed significantly.

On behalf of our client we therefore request that the ADC disregard the submission and the claims within the submission as lodged by WMIS. The information supplied was inaccurate, vague and has substantial omissions in an effort to have WMIS protected by the current dumping and countervailing duties whilst not complying with the law nor the spirit of the provisions.

Should you have any queries in relation to this application please do not hesitate to contact me,

Yours Sincerely,

Brett Greedy

Director of Operations.