



Exemption inquiry report number: EX0022

Exemption from dumping and countervailing duties on hot rolled plate steel

Exported to Australia from the People's Republic of China, the Republic of Indonesia, Japan and the Republic of Korea

Applicant: Amity Pacific Pty Ltd

24 July 2015

Customs Act 1901 Part XVB

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Abbreviations

Amity Pacific	Amity Pacific Pty Ltd
Applicant	Amity Pacific Pty Ltd
BlueScope	BlueScope Steel Limited
Commission	Anti-Dumping Commission
Commissioner	Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry and Science
TCO	Tariff Concession Order

1. Summary and findings

This report sets out the findings of the Anti-Dumping Commission (the Commission) in relation to an exemption from dumping duties on hot rolled plate steel exported to Australia from the People's Republic of China (China), the Republic of Indonesia, Japan and the Republic of Korea, and countervailing duties on hot rolled plate steel exported to Australia from China. As a result of these findings the Commissioner of the Anti-Dumping Commission (the Commissioner) has made a recommendation to the Parliamentary Secretary to the Minister for Industry and Science (Parliamentary Secretary) to exempt certain hot rolled plate steel products from dumping and countervailing duties.

1.1. Inquiry summary

This inquiry commenced on 28 May 2015 following an application by Amity Pacific Pty Ltd (the applicant). The applicant claimed an exemption from dumping and countervailing duties for the following goods:

Hot rolled plate steel meeting specific characteristics covered by Tariff Concession Order TC 1413674.

The applicant requests that the goods be made exempt under paragraphs 8(7)(b) and 10(8)(aa) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act)¹ on the basis that a Tariff Concession Order (TCO) is in force.²

Following initiation of the inquiry, interested parties were invited to make submissions by 18 June 2015 and BlueScope Steel Limited (BlueScope) was asked to respond to an industry questionnaire. Further details of the applicant's claims and the inquiry process can be found in the Anti-Dumping Notice issued on commencement of the inquiry.³

1.2. Findings

Having regard to the application, submissions received from interested parties and other information considered relevant (as detailed in chapter 2 of this report), the Commissioner is satisfied that the conditions for granting an exemption under paragraphs 8(7)(a) and 10(8)(aa) have been met.

Accordingly, the Commissioner recommends that the Parliamentary Secretary exempt certain goods from dumping and countervailing duties, and that the Parliamentary Secretary signs the instrument at **Attachment 1** to give effect to this decision.

¹ A reference to a section, subsection, paragraph or subparagraph in this report is a reference to a provision of the Dumping Duty Act, unless otherwise specified.

² Refer to Appendix 1 – Legislative framework for full details of the grounds for exemption.

³ Refer to Anti-Dumping Notice No. 2015/67 at http://www.adcommission.gov.au/cases/Documents/EX0022/002_ADN2015-67_EX0022.pdf

2. Evidence relied upon

2.1. Information submitted to the inquiry

2.1.1. Legislative framework

The legislation does not prescribe a process for conducting an exemption inquiry, however the Commission will consider all submissions received within the timeframes stipulated upon initiation of the inquiry.

2.1.2. Summary of information

The table below summarises the information submitted to the Commission by interested parties and any verification undertaken of that information.

Interested party	Details	Verification
Applicant	The applicant advised that: <ul style="list-style-type: none"> the goods subject to the exemption request are covered by TC 1413674; it was the successful applicant for the imposition of the TCO; and BlueScope did not oppose its application for the TCO. 	The Commission has verified that TC 1413674 is still current and that Amity Pacific was also the applicant for the TCO.
Australian industry	BlueScope responded to the Commission's questionnaire and stated that it did not object to the granting of an exemption.	As BlueScope does not object to the application, the Commission has not undertaken additional verification.
Other interested parties	No information or submissions were received by the Commission from other interested parties.	

2.2. Information gathered by the Commission

2.2.1. Legislative framework

The legislation does not prescribe a process for conducting an exemption inquiry, however in addition to information submitted to the Commission by interested parties; the Commission will have regard to any other information considered relevant.

2.2.2. Summary of information

The Commission did not gather information other than information provided by the applicant and BlueScope, and publicly available information including the *Commonwealth of Australia Tariff Concessions Gazette*.

3. The goods

3.1. The goods subject to measures

The goods subject to measures in the form of dumping and countervailing duties are:

non-alloy steel; or non-heat treated alloy steel of a kind commonly referred to as Quench and Tempered (Q&T) Green Feed; of a width greater than 600 millimetres (mm), with a thickness equal to or greater than 4.75mm, not further worked than hot rolled, not in coils, with or without patterns in relief.

Goods excluded from the measures are:

- *250 megapascal (MPa) yield strength grades of plate steel with a thickness greater than 150mm;*
- *350 MPa yield strength grades of plate steel with a thickness greater than 100mm;*
- *Q & T Green Feed grades of plate steel with a thickness greater than 105mm; and*
- *heat treated Q & T grades of plate steel.*

Further detail regarding this description (including products that are not the goods) and the relevant tariff classification can be found in the final report of the original investigation into the goods.⁴

3.2. The goods subject of the exemption request

The goods subject to the request for exemption (the exemption goods) are plate steel meeting specific characteristics covered by Tariff Concession Order TC 1413674. A copy of TC 1413674 is at **Attachment 2**.

The exemption goods are classified to tariff subheading 7208.52.00 (statistical code 41) of Schedule 3 to the *Customs Tariff Act 1995*.

⁴ Refer to Final Report No. 198 http://www.adcommission.gov.au/cases/Documents/179-FinalReportNo198_000.pdf

4. Exemption from duty

4.1. Findings

Having considered the information set out in chapter 2 of this report, the Commissioner is satisfied that the conditions for granting an exemption have been met.

4.2. Grounds for exemption

4.2.1. Legislative framework

The grounds for exempting goods from dumping or countervailing duty are set out in Subsection 8(7) and Subsection 10(8) respectively.

4.2.2. Applicant's claims

The table below summarises the applicant's claims that the goods should be granted an exemption from dumping and countervailing duties.

Grounds for exemption	Paragraph	Claimed?	Details
Like or directly competitive goods are not available	s.8(7)(a) and s.10(8)(a)	No	
TCO is in force in relation to the goods	s.8(7)(b) and s.10(8)(aa)	Yes	The applicant claimed in its application that TC 1413674 is in place for certain hot rolled plate steel.
Customs by-law applies to the goods	s.8(7)(c) and s.10(8)(b)	No	
Concessional rate of duty applies to the goods	s.8(7)(d) and s.10(8)(c)	No	
The goods are samples	s.8(7)(e) and s.10(8)(d)	No	

4.2.3. Industry's response

The table below summarises the industry's response to the request for an exemption.

Grounds for exemption	Supported?	Details
TCO is in force in relation to the goods	Yes	BlueScope indicated that it does not object to the application for exemption for hot rolled plate steel covered by TC 1413674.

4.2.4. Commission's assessment

A TCO is in effect and BlueScope has not asked that it be revoked. Accordingly, the Commissioner has assessed that the conditions for granting an exemption from dumping and countervailing duty under paragraphs 8(7)(b) and 10(8)(aa) respectively have been met.

4.3. Effective date of exemption

4.3.1. Legislative framework

The date upon which an exemption takes effect is not prescribed by legislation and is at the discretion of the Parliamentary Secretary.

4.3.2. Date of the application

The applicant lodged its application with the Commission on 23 July 2014.

4.3.3. Commission's assessment

It is the Commission's policy to recommend that an exemption be backdated to the date of the application. The Commission recommends that the exemption be backdated to 23 July 2014.

5. Appendices and attachments

Appendices	Title
Appendix 1	Legislative framework

Attachments	Confidentiality	Title
Attachment 1	Public	Ministerial Exemption Instrument No. 1 of 2015
Attachment 2	Public	Tariff Concession Order TC 1413674

Appendix 1 – Legislative framework

Exemption inquiry

The *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act)⁵ sets out the grounds upon which the Minister⁶ can exempt particular goods from dumping or countervailing duty. The legislation does not prescribe a process for considering a request for an exemption, however it is policy for the Anti-Dumping Commission (Commission) to require a written application and conduct an inquiry in the same manner as it does for other matters such as a review of anti-dumping measures.

The role of the Commission

The Commission is responsible for conducting an exemption inquiry and preparing a report for the Anti-Dumping Commissioner (Commissioner). This report considers whether the grounds exist for exempting goods from existing dumping and/or countervailing duty under the Dumping Duty Act.

The role of the Commissioner

The Commissioner, after having regard to the Commission's report, can either recommend that the Minister grant an exemption, or terminate the inquiry if not satisfied that the conditions for granting an exemption have been met.

Grounds for exemption

The grounds for exempting goods from dumping or countervailing duty are set out in subsections 8(7) and 10(8) respectively. In broad terms they exist where:

- like or directly competitive goods are not available in Australia⁷
- a Tariff Concession Order (TCO) is in force⁸
- a Customs by-law applies to the goods⁹
- a concessional rate of duty applies to the goods,¹⁰ or
- the goods are samples.¹¹

The full text of the relevant provisions follows.

⁵ A reference to a section, subsection, paragraph or subparagraph in this appendix is a reference to a provision of the Dumping Duty Act, unless otherwise specified.

⁶ Or Parliamentary Secretary, in the case where the Minister has delegated his/her powers under the Dumping Duty Act to his/her Parliamentary Secretary.

⁷ Paragraphs 8(7)(a) and 10(8)(a)

⁸ Paragraphs 8(7)(b) and 10(8)(aa)

⁹ Paragraphs 8(7)(c) and 10(8)(b)

¹⁰ Paragraphs 8(7)(d) and 10(8)(c)

¹¹ Paragraphs 8(7)(e) and 10(8)(d)

Subsection 8(7)

The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:

- (a) 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;
- (b) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force;
- (c) that:
 - (i) where the goods are goods to which section 8 of the *Customs Tariff Act 1995* applies—the item in Schedule 4 to that Act that applies to the goods is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law; and
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available;
- (d) that:
 - (i) the tariff classification in Schedule 3 to that Act that applies to the goods is such that no duty is payable in respect of the goods or the duty payable in respect of the goods is at a rate equivalent to a rate payable under Schedule 4 on the goods; and
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available; or
- (e) that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.

Subsection 10(8)

The Minister may, by notice in writing, exempt goods from interim countervailing duty or countervailing duty if he or she is satisfied:

- (a) 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;
- (aa) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force;
- (b) that:
 - (i) where the goods are goods to which section 8 of the *Customs Tariff Act 1995* applies—the item in Schedule 4 to that Act that applies to the goods is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law ; and
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available;
- (c) that:
 - (i) the tariff classification in Schedule 3 to that Act that applies to the goods is such that no duty is payable in respect of the goods or the duty payable in respect of the goods is at a rate equivalent to a rate payable under Schedule 4 on the goods; and
 - (ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available; or
- (d) that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.

Attachment 2 – Tariff Concession Order

TC 1413674

7208.52.00 STEEL PLATE, hot rolled, non-alloy, conforming to Japanese Industrial Standard G3106, (JIS G3106), grade SM400A, having ALL of the following:

- (a) hydrochloric acid (HCl) corrosion rate NOT greater than 1 mg/cm²/h, with HCl concentration of 20% at 40 degrees Celsius;
- (b) sulphuric acid (H₂SO₄) corrosion rate NOT greater than 150g/M²/h, with H₂SO₄ concentration of 50% at 70 degrees Celsius;
- (c) thickness NOT less than 4.75 mm and NOT greater than 10 mm;
- (d) tensile strength NOT less than 400 Mpa and NOT greater than 510 Mpa;
- (e) yield strength NOT less than 245 Mpa and NOT greater than 400 Mpa;
- (f) chemical composition by weight of ALL of the following:
 - (i) carbon content NOT greater than 0.14%;
 - (ii) silicon content NOT greater than 0.55%;
 - (iii) magnesium content NOT greater than 1.60%;
 - (iv) phosphorus content NOT greater than 0.025%;
 - (v) sulphur content NOT greater than 0.025%;
 - (vi) copper content NOT less than 0.25% and NOT greater than 0.4%;
 - (vii) antimony content NOT less than 0.01% and NOT greater than 0.1%;
 - (viii) NOT greater than 0.08% of any other alloying element if present

Op. 23.04.2014

Dec. 21.07.2014

- TC 1413674