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Public Record Version

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April 20, 2012

Mr G Gleeson,  
Director,  
International Trade Remedies Branch,  
Australian Customs & Border Protection Service,  
Canberra, ACT 2600

Dear Mr Gleeson,

**Reference: HSS Case No 177  
Statement of Essential Facts**

We write to you in relation to the pending Statement of Essential Facts (SEF) and on behalf of the exporters and importers we represent of the so termed HSS goods from countries included in the current investigation .

Firstly, we welcome the common sense decision based on the real world situation of the Thai market situation.

Given the importance of the pending SEF in terms of what exporters will be allowed to be competitive and thus participate in the single Australian market we urge you, as the Delegate, to ensure that the SEF deals with what goods within the GUC that Onesteel-ATM factually can, and actually do produce.

Specifically we refer to non-circular goods with a wall thickness of 9mm and more, but as previously expressed, there are other goods within the GUC that we understand Onesteel-ATM cannot, or will not produce such as HDGP.

Re the HDGP for example "Customs" has stated that it has not undertaken a full assessment if "Duragal" and "Supagal" products are directly "like to HDGP" and on the issue of Onesteel-ATM only having the capability to produce non circular goods of limited dimension and wall thicknesses, Onesteel-ATM should be required to provide a precise answer to the specific question previously submitted..

We maintain that the acceptance of these Onesteel-ATM applications need to be based on what the applicant produces, and not what it may be "capable of supplying" . The public record version of the Onesteel-ATM visit report to its Mayfield plant states that ATM's Product Availability Guide "indicates that ATM is capable of supplying HSS described as CHS, square hollow sections (SHS) and RHS in various " sizes, wall thicknesses etc.-page 15, para 3.4.2 Visit Report.

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We submit that 'capable of supplying' may not satisfy what we claim is the "Industry Standing" requirement on production and note that "Customs" did state it had the understanding that "ATM did manufacture , or had the ability to manufacture, the entire range of HSS within the Product Availability Guide during the investigation period, **excluding some larger diameter RHS and SHS , which is sourced from OS Pipe and Tube and imports**" – emphasis added, reference page 16, para 3.4.2 of Visit Report.

There are a number of issues with this observation, including the following:

1. The imposition of any measures are of a prospective nature-for five years.
2. "Customs" ,in our opinion, should detail the particulars, namely dimensions and wall thicknesses, of the larger diameter RHS and SHS sourced from OS Pipe and Tube and imports, being a range of subject goods that Onesteel-ATM cannot produce.
3. OS Pipe and Tube is to cease operation from end of May 2012.
4. Onesteel-ATM import GUC from countries not included in this investigation.
5. Absent the clarification of Onesteel-ATM's factual production capability there is a real risk of measures being imposed because of goods that Onesteel-ATM cannot produce, and that, in our opinion would be tantamount to providing this single local producer with unintended protectionism on third party imports of those goods that it can exclusively import from countries not included in this investigation.
6. Given the Minister's discretionary powers, we strongly believe the Minister is entitled to know of ATM's factual production capability.

Para 4.4 of the Visit Report on ATM imports also "fails" to provide the particulars of what Onesteel-ATM can and cannot produce in terms of the RHS-SHS range and on the statement that-

**\* "In terms of imported HSS , ATM stated it has made a deliberate choice to purchase from countries that it considers do not dump HSS into Australia"**

-we know that Onesteel-ATM does source imported HSS from the countries included in this investigation and on its exclusive supply arrangement with HSS from Vietnam, the US Department of Commerce announced in April 2012 preliminary determinations that Vietnamese exporters of circular ERW pipes have received countervailable subsidies of from 0.4% and 8.06% and US Customs has been instructed to collect cash deposits based on those rates.  
\*page 26 of Visit Report.

We also comment on the accuracy of certain comments in para 4.3.1 of PAD report No 177 relating to ATM's Mayfield plant.

That comment reads:-

"Customs and Border Protection understands, and has observed that ATM manufactures a comprehensive range of HSS, in various shapes (rectangular (RHS), square (SHS), circular (CHS), oval and others), finishes, sizes (diameters and perimeters) gauges (wall thicknesses), lengths and grades, AT ITS Mayfield plant."

Our understanding based on what we believe was ATM's own documentation, is that from around August 2008 ATM closed two of its three mills at Mayfield, being nos 1 and 4, which reduced Mayfield's apparent output from around 120kt tonnes to around 60kt tonnes pa for the only operative no 2 mill being an estimated 20% of ATM's total production. ATM's Mayfield plant had the highest conversion cost per tonne of all three plants (Acacia Ridge & Somerton) and the two mill closures would have resulted in ATM transferring up to 60kt tonnes to, mainly, Acacia Ridge, (and Somerton) with obvious cost savings such as the ATM employee count being reduced by an estimated 170.

At the time ATM made this strategic decision to "right size" its production capacity, the Acacia Ridge plant, the ex Smorgon Steel facility, on our understanding, had the highest output of over 150kt tonnes and was "by far" the most cost efficient in terms of conversion costs per tonne.

Our further understanding is that the ATM Mayfield plant essentially produces the In Line Galvanised (ILG) "Duragal" product in non-circular shapes up to 6mm wall thicknesses which is hardly a "comprehensive range of HSS" particularly as our understanding is that Mayfield no longer produces RHS-SHS.

As previously expressed, and acknowledging the SEF publication is imminent, we respectfully submit that the other affected interests have an entitlement to a clear understanding of what this applicant can actually produce, and not what it claims is its capability to supply.

Thank you for your consideration.

Sincerely,



M J Howard  
Representative