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Australian Government
Anti-Dumping Commission

EXEMPTION INQUIRY EX0017

**CERTAIN HOLLOW STRUCTURAL SECTIONS
EXPORTED TO AUSTRALIA FROM THE
PEOPLE'S REPUBLIC OF CHINA, THE
REPUBLIC OF KOREA, MALAYSIA AND TAIWAN**

**APPLICANT:
ORRCON OPERATIONS PTY LTD**

JUNE 2014

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2 SUMMARY AND RECOMMENDATIONS

This inquiry is in response to an application by Orrcon Operations Pty Ltd (Orrcon) requesting an exemption from dumping duty and countervailing duty (collectively, the **measures**) under sections 8 and 10 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) in relation to the export of certain hollow structural sections (HSS) from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan.

The report sets out the facts on which the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) may rely on to exempt goods from measures.

2.1 Recommendation

The Anti-Dumping Commission (the Commission) has found that for the goods (refer to **section 4.3**) the subject of Orrcon's amended application, a Tariff Concession Order (TCO) under Part XVA of the *Customs Act 1901* (the Act) is in force. Accordingly, the Parliamentary Secretary can be satisfied that the conditions of subsections 8(7)(b) and 10(8)(aa) of the Dumping Duty Act for granting an exemption are met.

The Commissioner recommends the Parliamentary Secretary exempt from measures HSS to which TC 1333313 applies, and that the Parliamentary Secretary sign the instrument at **Appendix 1**, to give effect to this decision.

The Commissioner recommends the exemption instrument take effect from 23 December 2013, being the date the application was lodged.

2.2 Application of law to facts

2.2.1 Authority to make decision

Subsections 8(7) and 10(8) of the Dumping Duty Act set out, *inter alia*, the matters to be considered by the Parliamentary Secretary in deciding whether to exempt goods from dumping duty and countervailing duty.

2.2.2 Application

On 23 December 2013, Xpress Trade Consulting wrote to the Commission, on behalf of Orrcon, requesting an exemption from measures in relation to imports of certain HSS that are subject to two TCOs, TC 1333313 and TC 1333316 (**Appendix 2**). The Commissioner accepted Orrcon's application for an exemption.

The application requested an exemption from the measures under subsections 8(7)(b) and 10(8)(aa) of the Dumping Duty Act, based on the grounds

“that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force”¹

2.2.3 Initiation of inquiry

After examining the application, the Commissioner was satisfied that:

- the claims put forward in the application warranted further inquiry;

¹ Subsections 8(7)(b) and 10(8)(aa) of the *Customs Tariff (Anti-Dumping) Act 1975*

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- that an exemption inquiry should commence; and
- that a final report and recommendation to the Parliamentary Secretary presenting evidence on which the Parliamentary Secretary may rely to exercise his power to exempt goods from measures under sections 8 and 10 of the Dumping Duty Act be prepared.

2.2.4 Amendment to the application

During the exemption inquiry, OneSteel Australian Tube Mills (OneSteel), a member of the Australian industry, objected to the granting of an exemption for goods covered by TC 1333316. Orrcon subsequently amended its application to remove TC 1333316 and only apply for an exemption for goods covered by TC 1333313.

2.3 Findings and conclusions

The Commission has found that:

- the TCO came into effect on 3 October 2013 and is in force;
- the TCO applies to a sub-set of goods subject to the measures;
- the Dumping Duty Act states that the Parliamentary Secretary may exempt goods if a TCO is in force; and
- the grounds for granting an exemption for the exemption goods under the Dumping Duty Act are therefore satisfied.

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3 BACKGROUND TO MEASURES

3.1 Original investigation

The measures, in the form of dumping and countervailing duty notices were initially imposed on HSS by public notice on 3 July 2012 by the relevant Minister following consideration of the *International Trade Remedies Branch Report to the Minister No. 177* (REP 177). These measures apply as follows:

- a dumping duty notice in respect of HSS exported by all exporters from China, Korea, Malaysia and Taiwan;² and
- a countervailing duty notice in respect of HSS exported from China by all exporters except two.³

Australian Customs Dumping Notice (ACDN) No. 2012/31 contains details of measures, including a description of the goods subject to measures.

3.2 The goods subject to the measures

The goods subject to measures are:

certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

The following information clarifies the nature of the goods subject to measures.

Finishing

All HSS regardless of finish is included.

Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

CHS with other than plain ends (such as threaded, swaged and shouldered) are also included.

Standards

HSS is generally produced to either the British Standard BS 1387 or the Australian Standard AS 1163 or international equivalent standards (including ASTM/JIS and KS).

² The Chief Executive Officer (CEO) of Australian Customs and Border Protection Service terminated the dumping investigation as far as it related to HSS from Thailand on 6 June 2012.

³ The two exporters are Qingdao Xiangxing Steel Pipe Co Ltd and Huludao City Steel Pipe Industrial Co Ltd. The CEO terminated the countervailing investigation as far as it related to those two exporters on 6 June 2012.

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HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals (MPa).

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

Excluded goods

The following categories are excluded from the goods subject to measures:

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);
- precision RHS with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes to AS.2556.

'Structural' sections

For clarification, the goods subject to the measures include all electric resistance welded pipe and tube made of carbon steel meeting the above description of the goods (and exclusions), regardless of whether or not the pipe or tube meets a specific structural standard or is used in structural applications.

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4 EXEMPTION APPLICATION

4.1 Goods subject of the application for exemption

The goods the subject of the application for exemption are:

“HSS subject to Tariff Concession Order 1333313.”

This follows the amendment of the application to remove HSS subject to TC 1333316.

TC 1333313 covers the following:

TUBES, square OR rectangular, electric resistance welded, complying with Australian/New Zealand Standard 1163:2009 (AS/NZS 1163:2009), Grade C350L0 OR C450L0, having EITHER (a) OR (b) AND (c), as follows:

(a) silicon content plus 2.5 times the phosphorus content

NOT greater than 0.09%;

(b) silicon content greater than 0.14% and NOT greater than 0.24%;

(c) perimeter NOT less than 720 mm.

4.2 Tariff classification

The exemption goods are currently classified to the tariff subheading 7306.61.00 (statistical codes 21, 22 and 25) of Schedule 3 to the *Customs Tariff Act 1995*.

The goods exported to Australia:

- from Korea and Taiwan are subject to a 5% rate of duty;
- from China and Malaysia are subject to a 4% rate of duty; and
- from Thailand using Thailand Free Trade Agreement rates are free from duty as of 1 January 2010.

4.3 Exemption inquiry

On 23 December 2013, the Commissioner accepted Orrcon's application for an inquiry into exemption from measures.

The Commission verified that the TCO specified by Orrcon was in force and also verified the date of effect of the TCO, which was 3 October 2013.

The Commission contacted all known Australian HSS industry members and requested that they participate in the exemption inquiry by completing a questionnaire.

OneSteel provided a response to the questionnaire, which objected to the granting of an exemption for goods covered by TC 1333316 as it claimed it had the capability to manufacture goods that fall under the description of that TCO. OneSteel proposed amended wording for the description of the goods (which captured a less broad range of goods) rather than using the description under TC 1333316 for the request for an exemption (**Attachment 1**). In its questionnaire response, OneSteel did not object to the granting of an exemption in relation to HSS covered by TC 1333313.

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Independent Tube Mills (ITM) also responded by completing the questionnaire and indicated that it did not object to the granting of an exemption for the exemption goods (**Attachment 2**).

Orrcon elected to amend its application to remove TC 1333316 (**Attachment 3**).

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5 ATTACHMENTS

Appendix 1	Instrument
Appendix 2	Orrcon's application for an exemption
Attachment 1	OneSteel response to exemption application lodged by Orrcon
Attachment 2	ITM response to exemption application lodged by Orrcon
Attachment 3	Orrcon's advice regarding amending its application