



ANTI-CIRCUMVENTION INQUIRY

NUMBER 291

EXPORTS OF SLIGHTLY MODIFIED GOODS TO AUSTRALIA

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

EXPORTER QUESTIONNAIRE

Periods of inquiry: 1 JULY 2010 TO 31 MARCH 2015

Response due by: **29 July 2015**

CASE CONTACT

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RETURN OF QUESTIONNAIRE

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**By mail
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Department of Industry and Science
GPO BOX 9839
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1. BACKGROUND

1.1. Original investigation and measures

On 3 July 2012, following consideration of *Anti-Dumping Commission Report No. 177*, the then Attorney-General published a dumping duty notice and a countervailing duty notice imposing anti-dumping measures in the form of interim dumping duty (IDD) on hollow structural sections (HSS) **made from carbon steel** exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan and interim countervailing duty (ICD) on HSS exported to Australia from China.

The dumping duty notice covers all exporters of HSS from China, Korea, Malaysia and Taiwan.

The countervailing duty notice covers all exporters of HSS from China except for Huludao City Steel Pipe Industrial Co., Ltd and Qingdao Xiangxing Steel Pipe Co., Ltd.

1.2. Background to anti-circumvention inquiry

1.2.1. Application and initiation

On 7 April 2015, Austube Mills Pty Ltd (ATM), a member of the Australian industry producing like goods, lodged an application under s.269ZDBC(1) of the *Customs Act 1901* (the Act)¹ for an anti-circumvention inquiry in relation to HSS exported from China, Korea, Malaysia and Taiwan.

In its application, ATM alleged that the applicable anti-dumping measures in respect of HSS from China, Korea, Malaysia and Taiwan were being circumvented by importers and exporters of the goods through the slight modification of those goods. Specifically, ATM alleged that HSS that would otherwise be subject to the anti-dumping measures, was being slightly modified through the addition of alloys to those goods, which allows for those goods to no longer be considered HSS made from carbon steel HSS, but rather **alloyed** HSS.

In its application, ATM highlighted that it considers HSS including the alloying element of boron has been imported and circumvented the anti-dumping measures. ATM identified that other alloys (such as chromium) may also have been used in such a modification.

Following consideration of this application, the Commissioner of the Anti-Dumping Commission (the Commissioner) decided to not reject the application in so far as it related to HSS exported from China, Korea and Malaysia, and an anti-circumvention inquiry was initiated into the slight modification of those goods. This anti-circumvention inquiry was initiated on 11 May 2015.

¹ All legislative references in this document refer to provisions of the Act unless specifically stated otherwise.

Following consideration of ATM's application, the Commissioner decided to reject the application in so far as it related to HSS exported from Taiwan..

Details of the Commissioner's consideration of ATM's application are in *Consideration Report 291*.

1.2.2. Inquiry process

The anti-circumvention inquiry will examine whether any exporters of HSS from China, Korea or Malaysia have engaged in circumvention activity where there is a slight modification of goods exported to Australia, as outlined in subsection 48(2) of the *Customs (International Obligations) Regulation 2015*.

The alleged circumvention goods exported to Australia during the period 1 July 2010 to 31 March 2015 will be examined to determine whether the circumvention activity has occurred..

Unless the inquiry is terminated earlier, after concluding the inquiry, the Commissioner will provide a report and recommendations to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary).

This report will recommend to the Parliamentary Secretary that, pursuant to subsection 269ZDBG(1) of the Act, the original dumping duty notice in respect of HSS:

- remain unaltered; or
- be altered following a finding that circumvention activity in relation to the original notice/s has occurred; and
- the alterations to be made

After considering the report and any other information that the Parliamentary Secretary considers relevant, the Parliamentary Secretary may leave the original notice unaltered or alter the original notice, specifying different goods that are subject to the notice, and altering variable factors in respect of certain exporters subject to the notice.

The Commission inquiry will be carried out under the provisions of the Part XVB of the Act.

2. THE GOODS AND THE CIRCUMVENTION GOODS

2.1. The goods subject to anti-dumping measures (the goods)

The goods subject to the dumping duty notice and the countervailing duty notice (the goods) are described as:

Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes.

For the purposes of this questionnaire, the goods will be referred to as 'non-alloy HSS' or as 'the goods'.

2.1.1. Additional product information

Further to the above description of the goods, the following additional information may assist in identifying the goods:

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 inline 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.

2.1.2. Tariff classifications of the goods

The goods are classified to tariff subheadings:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);
- 7306.61.00 (statistical codes 21, 22 and 25); and
- 7306.69.00 (statistical code 10)

of Schedule 3 to the *Customs Tariff Act 1995* (Tariff Act).

The general rate of duty is 5% for goods imported under these tariff subheadings.

The goods exported to Australia:

- from Korea are subject to a 3% rate of duty; and
- from China and Malaysia are subject to a 4% rate of duty.

2.2. The goods subject to the inquiries (the circumvention goods)

The goods subject to the anti-circumvention inquiries (the circumvention goods) are described as:

certain electric resistance pipe and tube made of alloy steel

For the purposes of this questionnaire, the circumvention goods are referred to as 'alloyed HSS' or as 'the circumvention goods'.

IMPORTANT: the circumvention goods are HSS that includes any alloy(s) and not only HSS that contains boron. Please answer questions in this questionnaire in relation to the circumvention goods regarding any type of alloyed HSS manufactured and/or sold by your company.

2.2.1. Tariff classifications of the circumvention goods

The circumvention goods are classified to tariff subheadings:

- 7306.50.00 (statistical code 45); and
- 7306.61.00 (statistical code 90)

of Schedule 3 to the Tariff Act.

The general rate of duty is 5% for goods imported under these tariff subheadings.

The circumvention goods exported to Australia:

- from Korea are subject to a 3% rate of duty; and
- from China and Malaysia are subject to a 4% rate of duty

3. INSTRUCTIONS

3.1. Why have you been asked to fill out this questionnaire?

The Commission is responsible for conducting the inquiries into alleged circumvention activities to determine whether those activities have occurred.

The Commission has identified your company as a possible exporter of the circumvention goods, and will examine your exports during the inquiry periods to determine whether circumvention of the measures has occurred.

3.2. What happens if you do not respond to this questionnaire?

You do not have to complete the questionnaire. However, if you do not respond, do not provide all of the information sought, do not provide information within a reasonable time period, or do not allow the Commission to verify the information if deemed necessary, the Commission may be required to rely on information supplied by other parties (possibly information supplied by the Australian industry) to assess if circumvention of the measures has occurred.

It is in your interest, therefore, to provide a complete and accurate submission, capable of verification.

3.3. Due date for response

You are requested to respond to this questionnaire and return it to the Commission within the time specified on the cover page. There is a statutory time limit imposed for the inquiries. The Commission may not be able to consider submissions received after the due date.

If you cannot lodge your submission by the due date please advise the inquiries' case manager as soon as possible.

3.4. Confidential and non-confidential submissions

You are required to lodge one confidential version (for official use only) and one non-confidential version (for public record) of your response by the due date.

Please ensure that each page of information you provide is clearly marked either "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD".

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the public record.

Please note, Australia's anti-dumping and countervailing legislation requires that to the extent that information given to the Commission is claimed to be confidential or whose publication would adversely affect a business or commercial interest, the person giving the information must ensure that a summary of that information contains sufficient detail to allow a reasonable understanding of the substance of the information, but does not breach confidentiality nor adversely affect those interests.

The legislation allows that a person is not required to provide a summary for the public record if the Commission can be satisfied that no such summary can be given that would allow a reasonable understanding of the substance of the information. However, such a summary would add considerably to an interested party's understanding of information contained in a document.

As provided for in Australia's anti-dumping and countervailing legislation, all submissions are required to have a bracketed explanation of deleted or blacked out information for the non-confidential version of the submission. Note that if such an explanation is not provided, the Commission may disregard the information in the submission. An example of a statement to accompany deleted/blacked out text is:

[explanation of cost allocation through the divisions].

If, for some reason, you cannot produce a non-confidential summary, please contact the inquiries' case manager.

Further advice on providing non-confidential information to the Commission can be found in Australian Customs Dumping Notice (ACDN) 2012/42, available on the Commission's website.

3.5. Exporter's declaration

Chapter 6 requires you to make a declaration that the information contained in your submission is complete and correct. Alternatively, if you did not export the circumvention goods during the period of inquiry, you may make a declaration to that effect.

You must return a signed declaration with your response to the questionnaire.

3.6. Verification of the information that you supply

The Commission may seek to verify the information provided in your submission.

This verification may take the form of written requests for additional information or an in-person verification visit with your company at its premises.

The purpose of verification is to authenticate the information submitted in response to this questionnaire. It is not meant to be a chance for you to provide new or additional information. The Commission expects your response to the questionnaire to be complete and accurate.

If an in-person visit is considered necessary, during that visit we will want to examine in detail your company's records in respect of the goods and the circumvention goods and will ask for copies of documents relating to the manufacture and sale of those goods. We will need to consult with your staff, particularly your export sales people. We may also need to see your factory, in which case we will need to consult with your operational managers.

After gathering the information we will prepare a report of the visit. We will provide you with a draft of the report and then respond to any questions you have. We will ask you to prepare a non-confidential copy of the report for the public record.

3.7. If you do not manufacture the circumvention goods

You may supply but not produce or manufacture the circumvention goods (for example, you are a trading company, broker, or vendor dealing in the circumvention goods).

In such cases it is important that you forward a copy of this questionnaire to the relevant manufacturers of the circumvention goods **immediately**. You should also inform the inquiries' case officer of the contact details for these manufacturers.

You should also **complete those sections of the questionnaire that you are reasonably able to complete**. If, for example, you are unable to supply details of production costs, you should clearly explain why the section does not apply to your company.

3.8. Some general instructions for preparing your response

- When answering the questionnaire please carefully read all instructions. The Commission requires a response to *all* sections of this questionnaire. Please provide an explanation if a question is not relevant to your situation.
- Please ensure that information submitted conforms to the requested format and is clearly labelled. Please repeat the question to which you are responding and place your answer below it.
- Identify source documents and advise where they are kept. During on-site verification you should be prepared to substantiate all the information you have submitted. Every part of the response should be traceable to company documents that are used in the ordinary course of business.
- We recommend that you retain all work sheets used in answering the questionnaire, in particular those linking the information supplied with management and accounting records. This will help us to verify the information.
- Where applicable, clearly identify all units of measurement and currencies used. Apply the same measurement consistently throughout your response to the questionnaire.

3.9. Provision of electronic data

- It is important that information is submitted in electronic format where directed.
- Electronic data should be emailed, or submitted on a CD-ROM or USB.
- The data must be created as spreadsheet files, preferably in Microsoft Excel, or alternatively in an Excel compatible format (for example, Excel can normally access data in Dbase or as an ASCII file). Excel files must be compatible to the USA version.
- An Excel workbook, ***Exporter Questionnaire – HSS AC*** accompanies this questionnaire and forms a template for your response to the data requested. The workbook is referred to throughout this questionnaire as appropriate. This workbook should be completed and used to provide the requested data where possible.
- If you cannot present electronic data in the requested format contact the investigation case officer as soon as possible.

3.10. Further information

Before you respond to the questionnaire you should read the key documents available on the Commission's website and public record in relation to these inquiries (www.adcommission.gov.au) including:

- ATM's applications for the inquiries;
- Consideration Report 291; and
- the Anti-Dumping notices notifying of the inquiries.

If you require further assistance, or you are having difficulties completing your submission, please contact the inquiries' case manager.

4. QUESTIONS FOR COMPLETION

4.1. Identity and communication

4.1.1. Company contact

Please nominate a person within your company who can be contacted for the purposes of this inquiry:

Head Office:

Name: [REDACTED]
Position in the company: Director
Address: 461-11, Seogyo-Dong, Mapo-Gu, Seoul, Korea
Telephone: [REDACTED]
Facsimile number: [REDACTED]
E-mail address of contact person: [REDACTED]

Factory:

Address: 854, Song Dong Ri, Daesong-Myun, Nam-Gu, Pohang City, Kyungsangbuk-Do, Korea
Telephone: [REDACTED]
Facsimile number: [REDACTED]
E-mail address of contact person: [REDACTED]

4.1.2. Representative of the company for the purpose of inquiry

If you wish to appoint a representative to assist you in this inquiry, provide the following details:

Name: John Bracic
Address: 43 Jansz Crescent Griffith ACT 2603
Telephone: +61 (0)499056719
Facsimile/Telex number: n/a
E-mail address of contact person: john@jbracic.com.au

Note that in nominating a representative, the Commission will assume that confidential material relating to your company in this inquiry may be freely released to, or discussed with, that representative.

4.1.3. Company information

- a) What is the legal name of your business? What kind of entity is it (e.g. company, partnership, sole trader)? Please provide details of any other business names that you use to export and/or sell goods.

Kukje Steel Co., Ltd. (hereinafter "Kukje") is a limited company and was incorporated on December 24, 1992 in accordance with the Commercial Law of the Republic of Korea.

- b) Provide a diagram showing all associated or affiliated companies and your company's place within that corporate structure.

Please refer to source documentation provided to the Commission in its recent questionnaire response to the review of measures (Case 266).

- c) Describe the nature of your company's business. Explain whether you are a producer or manufacturer, distributor, trading company, etc.

Kukje is a manufacturer of HSS products.

- d) If your business does not perform all of the following functions in relation to alloyed HSS, then please provide names and addresses of the companies which perform each function:

- produce or manufacture
- sell in the domestic market
- export to Australia, and
- export to countries other than Australia.

Not applicable as Kukje performs all of the listed functions.

4.2. Exports to Australia

4.2.1. Description

Fully describe all of non-alloy HSS and alloyed HSS you have exported to Australia during the inquiry period.

Include details of all models of alloyed HSS and non-alloy HSS exported.

Include specification details, details of alloys and their levels (for alloyed HSS), and include any technical and illustrative material that may be helpful in identifying, or classifying, the exported products.

Kukje has not exported any alloy-HSS products to Australia during the inquiry period. All exports of carbon-HSS by Kukje during the inquiry period have been provided to the Commission as part of the original investigation, [REDACTED] and the recent review of measures.

4.2.2. Customer identity

For each customer in Australia to whom you shipped alloyed HSS in the inquiry period list:

- name;
- address;

- contact name and phone/fax number where known; and
- trade level (for example: distributor, wholesaler, retailer, end user, original equipment).

Not applicable as Kukje did not export alloy-HSS to Australia.

4.2.3. Australian sales data

Fill in the spreadsheet titled 'Australian sales' in the attached Excel workbook **Exporter Questionnaire – HSS AC** in relation to your Australian sales of non-alloy HSS and alloyed HSS during the applicable inquiry period.

If your company has supplied non-alloyed HSS and/or alloyed HSS from more than one of:

- China;
- Korea; or
- Malaysia

during the applicable inquiry period, complete an 'Australian sales' spreadsheet for each country.

See the cover of this questionnaire for the inquiry period applicable to your exports.

Kukje has not exported any alloy-HSS products to Australia during the inquiry period. All exports of carbon-HSS by Kukje during the inquiry period have been provided to the Commission as part of the original investigation, [REDACTED] and the recent review of measures.

4.2.4. Australian sales documents

From the 'Australian sales' spreadsheet completed in response to Question 4.2.3, select:

- two shipments of alloyed HSS (alloyed HSS); and
- two shipments of non-alloy HSS

in different quarters of the inquiry period.

If your company only exported alloyed HSS during the inquiry period, please select four shipments of those goods.

Provide the following documentation related to those sales:

- a copy of your market offer for non-alloy HSS or alloyed HSS;
- any correspondence negotiating terms of the sales, price, products, etc. that you have on record;

- the importer's purchase order, order confirmation, and contract of sale;
- commercial invoice;
- bill of lading, export permit;
- if received, the VAT rebate for the alloyed HSS;
- packing list; and
- mill test certificate (including chemical analysis).

The Commission may select additional shipments for verification or provision of documentation at a later date.

Kukje has not exported any alloy-HSS products to Australia during the inquiry period. Export documentation relating to exports of carbon-HSS by Kukje during the inquiry period have been provided to the Commission as part of the original investigation, [REDACTED] and the recent review of measures.

4.2.5. Sales process

- a) Fully describe the sales process to your Australian customers of alloyed HSS from market offer through to invoicing, delivery and payment.

In your response, indicate the time period for each of the sales process steps.

If there are multiple distribution channels for alloyed HSS, explain each separately.

Not applicable as Kukje did not export alloy-HSS to Australia.

- b) Does the process described above differ in any way from the sales process of non-alloy HSS? Provide details.

Not applicable as Kukje did not export alloy-HSS to Australia.

- c) Are the models of alloyed HSS that you exported to Australia during the inquiry period part of your standard product offering to Australia, or are they only available under special circumstances (e.g. through special order)?

Not applicable as Kukje did not export alloy-HSS to Australia.

- d) Do your Australian customers for alloyed HSS specifically request/order non-alloy HSS include alloys that result in it being considered alloyed HSS?

Not applicable as Kukje did not export alloy-HSS to Australia.

- e) Do you market alloyed HSS differently from non-alloy HSS. If so, describe any differences.

Not applicable as Kukje did not export alloy-HSS to Australia.

- f) What is the minimum order quantity for export to Australia of:
- non-alloy HSS;
 - alloyed HSS.

Not applicable as Kukje did not export alloy-HSS to Australia.

4.2.6. Selling price

- a) Is there a difference in selling price to your Australian customers between non-alloy HSS and alloyed HSS, assuming all other factors of the sale were the same (e.g. customer, order quantity, product characteristics such as thickness, credit terms).

That is, are alloyed HSS generally a different price to non-alloy HSS based solely on the fact that they are an alloyed product?

Not applicable as Kukje did not export alloy-HSS to Australia.

- b) If the answer to the above is yes, quantify the price difference for each year of the inquiry period. Provide any documents that support this price difference (e.g. price lists, comparable invoices, etc).

Not applicable as Kukje did not export alloy-HSS to Australia.

4.2.7. 'Switch' of supply

If your company 'switched' from supplying non-alloy HSS to supplying alloyed HSS during the assessment period, answer the following questions:

- a) What was the rationale for this switch in supply?
- b) Was this in response to a specific request from your Australian customer(s)?
- c) What alterations to your manufacturing process and/or sales process were necessary as a result of this shift in supply?
- d) When did you first commence exporting alloyed HSS to Australia?

Not applicable as Kukje did not export alloy-HSS to Australia.

4.3. Sales to other markets

4.3.1. Domestic sales

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- a) Did you sell the alloyed HSS in your domestic market during the relevant inquiry period?

No.

- b) If the answer to the above is yes:

- i. Provide a full description of all types of alloyed HSS sold on the domestic market, including:
 - a description of model of those goods
 - what alloy(s) are included in those goods and in what quantities
- ii. Identify which (if any) of this alloyed HSS are identical to alloyed HSS exported to Australia during the inquiry period.
- iii. If applicable, explain how alloyed HSS sold on the domestic market differ from alloyed HSS sold to Australia:
 - physically;
 - through their manufacturing process; or
 - in purpose/end use.

Not applicable.

4.3.2. Third country sales

- a) Did you sell alloyed HSS to any other export market(s) (besides Australia) during the relevant inquiry period?

No.

- b) If the answer to the above is yes:

- i. Provide a full description of all types of alloyed HSS sold to those markets, including:
 - a description of model of those goods
 - what alloy(s) are included in those goods and in what quantities
- ii. Identify which (if any) of this alloyed HSS are identical to alloyed HSS exported to Australia during the inquiry period.
- iii. If applicable, explain how alloyed HSS sold on to third country markets differ from alloyed HSS sold to Australia:
 - physically;
 - through their manufacturing process; or

- in purpose/end use.

Not applicable.

4.4. Manufacturing process

Fully describe your manufacturing process of:

- alloyed HSS; and
- non-alloy HSS

Outline any particular differences in the production process of each of these goods, paying particular attention to the addition of alloys to the products.

Kukje has not exported any alloy-HSS products to Australia during the inquiry period. A detailed description of the production process relating to carbon-HSS by Kukje has been provided to the Commission as part of the original investigation, [REDACTED] and the recent review of measures.

4.5. Costing information

- a) Are there any differences between the cost to make and sell non-alloy HSS and alloyed HSS? If yes, provide details of these differences including differences in:
- raw material costs;
 - manufacturing overheads; and
 - any other costs.

Not applicable as Kukje did not export alloy-HSS to Australia.

- b) Provide a calculation of the difference in cost to make and sell non-alloy HSS and alloyed HSS, ensuring you itemise each individual cost difference.

Provide supporting evidence of this calculation (e.g. raw material invoices) and explain the calculation (including assumptions).

You may wish to submit this as an additional spreadsheet in the **Exporter Questionnaire – HSS AC** Excel workbook.

Not applicable as Kukje did not export alloy-HSS to Australia.

4.6. Purpose and end use

- a) Described the purpose(s) and end use(s) of:

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- i. non-alloy HSS; and
- ii. alloyed HSS (non-alloy HSS).

Not applicable as Kukje did not export alloy-HSS to Australia. The Commission's Report 177 states that carbon-HSS "is used in a wide variety of applications including automotive, engineering construction, manufacturing, mining, oil and gas, residential and non-residential construction, temporary fencing, transport, furniture and play equipment, and rural applications."

- b) Are there any specific purpose(s) and/or end use(s) that alloyed HSS you export are suitable for that non-alloy HSS are not suitable for? Provide details and supporting evidence where possible.

Not applicable as Kukje did not export alloy-HSS to Australia.

- c) Are there any purpose(s) and/or end use(s) that alloyed HSS and non-alloy HSS can be used interchangeably for?

Not applicable as Kukje did not export alloy-HSS to Australia.

- d) What Standards/specifications are your non-alloy and alloyed HSS manufactured/supplied to when exporting to Australia?

Not applicable as Kukje did not export alloy-HSS to Australia.

- e) If you are doing so, why are you supplying a mix of alloyed HSS and non-alloy HSS to Australia?

Not applicable as Kukje did not export alloy-HSS to Australia.

4.7. Open comments

If your company wishes to make any general comments about whether it has engaged in a circumvention activity through the slight modification of non-alloy HSS (for the purposes of as outlined in Regulation 48(2) of the *Customs (International Obligations) Regulation 2015*), it may take the opportunity to do so in response to this questionnaire.

Not applicable as Kukje did not export alloy-HSS to Australia.