

RESPONSE TO AN APPLICATION FOR EXEMPTION FROM DUTY UNDER THE CUSTOMS TARIFF (ANTI-DUMPING) ACT 1975

Exemption inquiry EX0099 – response requested by 29 February 2024

1 Introduction

The Anti-Dumping Commission (the commission) requests your response to an application for exemption from anti-dumping measures under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act provide discretion for the Minister for Industry, Science and Technology (the Minister) to exempt goods from anti-dumping measures, where they are satisfied 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.

The commission has received an application for exemption from anti-dumping measures in respect of certain hollow structural sections for the goods described at section 5 of this form (“the exemption goods”).

Your company has been identified as an Australian producer of the goods.

The commission seeks your assistance in this exemption inquiry by responding to this questionnaire. The commission will use the information you provide in its assessment as to whether an exemption from dumping duties may be recommended to the Minister.

2 Current anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 3 July 2012 by the then Minister for Home Affairs following consideration of International Trade Remedies Branch Report No. 177. Interim dumping duties apply to all exporters of HSS from People’s Republic of China (China), Malaysia and Taiwan. Interim dumping duties apply to all exporters of HSS from the Republic of Korea except Kukje Steel Co Ltd and Hi-Steel Co., Ltd. Interim countervailing duties apply to all exporters from China, except Dalian Steelforce Hi-Tech Co. Ltd, Huludao City Steel Pipe Industrial Co. Ltd and Qingdao Xianxing Steel Pipe Co. Ltd. The goods subject to the anti-dumping measures and this inquiry 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 inline galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21 millimetres (mm) up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3 mm.

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The following categories of HSS are excluded from the goods:

- 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 1.6 mm; and
- air heater tubes to AS 2556.

Exempted goods

As a result of Ministerial Exemption Instrument No 1 of 2023¹, certain HSS is exempt from the anti-dumping measures as a result of a Tariff Concession Order (TCO)² granted in respect of:

Steel ERW pipe, circular, EN10305 Standard, cold drawn, in the following sizes:

- 69 mm outside diameter x 57 mm inside diameter, wall thickness 6.0 mm
- 83 mm outside diameter x 70 mm inside diameter, wall thickness 6.5 mm
- 89 mm outside diameter x 79 mm inside diameter, wall thickness 5.0 mm
- 101 mm outside diameter x 88 mm inside diameter, wall thickness 6.2 mm
- 114 mm outside diameter x 101 mm inside diameter, wall thickness 6.5 mm
- 120 mm outside diameter x 107 mm inside diameter, wall thickness 6.5 mm
- 139 mm outside diameter x 127 mm inside diameter, wall thickness 6.0 mm
- 152 mm outside diameter x 127 mm inside diameter, wall thickness 12.5 mm
- 165 mm outside diameter x 152 mm inside diameter, wall thickness 6.5 mm

And having all of the following specifications and confirmed on mill certificates:

- Length ranging from 5.8 metres to 8.9 metres, and
- Surface roughness (Ra) no greater than 1.6 micrometres, and
- Outside and inside diameter tolerance no greater than ± 0.25 mm, and
- E355-SR grade steel, cold drawn and stress relieved in a controlled atmosphere.

3 Application for Exemption from Measures

An application for an exemption has been made to the commission by Schiavello Manufacturing Pty Ltd. The commission has considered the application and after consultation with the applicants, accepted the application and will now undertake an examination to determine whether it should recommend the requested exemption.

4 Exemption Provisions

The Dumping Duty Act provides discretion for the Minister to exempt goods from dumping duties if one of the criteria in section 8(7)(a) is met, or to exempt goods from countervailing duties if one of the criteria in section 10(8)(a) is met.

Section 8(7)(a)

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

¹ ADN No. 2023/020 – EPR EX0092 – Document No. 8

² Available on the Australian Border Force website at www.abf.gov.au.

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- (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;

Section 10(8)(a)

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;

The exemption provisions are subject to the discretion of the Minister and an exemption is not automatically granted, even where the criteria in the provision is met.

5 The Goods Subject to this Exemption Application

The goods the subject of this exemption inquiry were defined by the applicant as:

Steel electric resistance welded pipe, circular, seamless, EN10305 Standard, cold drawn, with OR without grooves, in the following sizes:

- 51.0 mm Outside Diameter x 47.0 mm Inside Diameter, Wall Thickness 2.0mm
- 63.5 mm Outside Diameter x 59.5 mm Inside Diameter, Wall Thickness 2.0mm
- 76.2 mm Outside Diameter x 72.2 mm Inside Diameter, Wall Thickness 2.0mm

Having all of the following specifications:

- Length ranging from 4.0 metres to 5.8 metres or from 5.8 metres to 8.9 metres;
- Surface roughness (Ra) no greater than 1.6 micrometres;
- Outside and inside diameter tolerance no greater than +/- 0.1mm;
- Straightness tolerance 0.1mm; and
- E355-SR grade steel (JIS G3445 STKM 11A-E-C), cold drawn and stress relieved in a controlled atmosphere.

The exemption goods are classified to the tariff subheadings 7306.30.00 (statistical code 31 and 34) of Schedule 3 to the *Customs Tariff Act 1995*.

Goods produced in Australia

The applicant claims that there are no Australian manufacturers of the exemption goods as described.

6 Instructions on Completing this 'Response to the Exemption Application'

The commission has identified your company as a producer of hollow structural sections.

Consequently, the commission has forwarded you this 'response to exemption application' (the response) to provide you with the opportunity to participate in this exemption inquiry.

The commission seeks your assistance with this exemption inquiry by responding to the questions in this form. The commission will use the information you provide to make a recommendation as to whether an exemption from dumping and/or countervailing duty should be granted by the Minister for Innovation, Science and Technology.

Specifically, the information provided by Australian hollow structural section producers will assist the commission in determining whether like or directly competitive goods are offered for sale in Australia and whether offers for sale of the goods are available to all purchasers on equal terms under like conditions having regard to custom and usage of trade.

Due date for the response

We request that you complete your response and return it to the commission by **16 February 2024**.

Please email your response to investigations2@adcommission.gov.au

Verification of the information that you supply

The commission may seek to verify some or all of the information supplied in the response. The commission may request evidence to support the claims such as quotations and offers of sale.

An onsite visit by the commission may be required in some cases. A report will be prepared of visits conducted and a non-confidential version will be placed on the public record.

There is no legislative timeframe for completion of an exemption inquiry, however a recommendation to the Minister will be made as soon as practicable after obtaining all relevant information.

Confidential and non-confidential submissions

We request that you also lodge a non-confidential version of your response suitable for placement on the public record. The commission puts greater weight on submissions that are available to other interested parties for comment.

Please ensure that each page of information you provide is clearly marked either:

“SENSITIVE: Official” 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.

Outline of information required by the response

Part A	Company contact information
Part B	Response to exemption application
Part C	Identical goods
Part D	Like or directly competitive goods
Part E	Capability to produce like or directly competitive goods
Part F	Additional comments
Part G	Your declaration

Response to Exemption Application

PART A – Company Information

A.1 Please provide the following company contact information:

Name:	██████████
Position in company:	██████████
Address:	121 Evans Road, SALISBURY, QLD, 4107
Telephone:	██████████
E-mail address of contact person:	██████████

PART B – Response to Exemption Application

B.1

Does your company oppose or not consent to the request for an exemption?

- Oppose
 Not oppose

B.2

Please state the reasons why you do not oppose the request for an exemption to the goods.

PART C – Identical Goods

C.1

Does your company produce, in Australia, goods that are identical in all respects to the goods described in section 5 of this 'Response to Exemption Form'?

If no, go to Part D – Like or directly competitive goods.

- Yes
 No

C.2

Please provide evidence that you have produced and sold in Australia, in the last 12 months, goods that are identical in all respects to the goods subject to this application for exemption.

Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods in the same detail as set out in the description of the goods (section 5), please provide additional information that indicates that identical goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature respecting the identical goods you have produced and sold.

C.3

Provide evidence of the terms and conditions of sale of these identical goods. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

PART D – Like or Directly Competitive Goods

D.1

If your company does not produce identical goods, does it produce and sell in Australia goods that are like or directly competitive to the goods subject to this application for exemption?

In determining whether the goods are like or directly competitive, the commission will consider whether the goods have characteristics closely resembling each other and are substitutable.

The goods as described are nearly identical to those manufactured and sold by Orrcon Manufacturing Pty Ltd (**Orrcon**):

- The key physical characteristics in terms of the pipe dimensions are identical.
- The commercial end-use for use in furniture, shelving, racking and the like are identical.

The production method used to manufacture the goods is similar. Specifically the scope of EN10305 (EuroNorm) and JIS G 3445 (Japanese International Standard) is very much the same as the Australian Standard AS1450 manufacturing process as used by Orrcon Manufacturing Pty Ltd; as summarised in the table below.

Standard	Title	Scope
AS1450	Steel tubes for mechanical purposes	This standard specifies the requirements for the production and supply of carbon and carbon-manganese steel tubes of round, square, rectangular, or other non-circular cross-section produced by either cold forming or hot-forming and intended for use in mechanical applications.
JIS G 3445	Carbon steel tube for machine structure	This [JIS] specifies the carbon steel tubes used for machinery, automobiles, bicycles, furniture, appliances, and other machine parts.
EN10305	Steel tubes for precision applications <i>Part 1: Seamless cold drawn tubes.</i> <i>Part 2: Welded cold drawn tubes.</i> <i>Part 3: Welded cold sized tubes.</i> <i>Part 4: Seamless cold drawn tubes for hydraulic and pneumatic power systems.</i> <i>Part 5: Welded and cold sized square and rectangular tubes.</i> <i>Part 6: Welded cold drawn tubes for hydraulic and pneumatic power systems.</i>	This European Standard specifies the technical delivery conditions for welded cold drawn steel tubes of circular cross section for precision applications with specified outside diameter D≤150mm. This document may also be applied to other types of cross section. Tubes according to this document are characterized by having precisely defined tolerances on dimensions and a specified maximum surface roughness. Typical fields of application are in the automotive, furniture and general engineering industries.

Where the description of the goods differ slightly is in regard to the cold-finishing process that imparts the internal grooves on the inside surface and some minor dimensional tolerances.

The commission may also consider:

- whether physical characteristics of the goods are similar (including size, weight, shape,

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- content, appearance, grade, standards, strength and purity)
- whether the goods are commercially alike, this may include consideration of the following
 - whether the goods directly compete in the same market sector
 - the extent to which participants in the supply chain are willing to switch between the goods and the goods subject to the application for exemption
 - how the price of the goods and goods subject to the application influences consumption
 - whether the goods share similar distribution channels and
 - whether the goods are similarly packaged.
 - functional likeness – whether the goods are suitable with regard to end use, this may include an assessment of
 - the extent to which the goods are functionally substitutable
 - the extent to which the goods are capable of performing the same or similar function
 - whether the goods have the same or similar quality standards and
 - consumer behavior in relation to the goods and goods subject to this application for exemption.
 - production likeness, this may include an assessment of
 - the extent to which the goods are constructed of the same or similar materials
 - the manufacturing process of the goods and
 - whether any patented processes or inputs are involved in the production of the goods.

D.2

If you answered yes to question D.1, please provide a description of the goods produced by your company that you consider to be like or directly competitive to the goods subject to this application. Your description of the goods your company produces should refer to all aspects of the goods as set out in the description of the goods in section 5.

Orrcon's range of precision pipe and tube product are manufactured to comply to AS1450. This range of products (**Precision Tube**) is referred in common use as mechanical or precision pipe and/or tube. Precision Tube is used as a precursor material ("*blank*") to manufacture a wide range of components used in consumer and industrial applications, including common household or consumer items, through to machine parts.

As Precision Tube is itself subject to further repetitive (*mass production*) manufacturing processes, including: bending, swaging, expanding, cutting, flaring, flattening and welding, etc; there is a requirement for precise dimensional controls on finished Precision Tube to be achieved. The final dimensional tolerances are frequently the subject of trials, development of gauges and engineering drawings.

Different surface finishes are also commonly available, and these are described extensively, along with typical end-use applications in page 10 of Non-Confidential Attachment 1. Additional quality assurance tests are undertaken as outlined in the brochure to ensure that the finished product is suitable for any subsequent manufacturing processes, including flatten, flare and bulge tests.

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Please provide evidence that the goods you consider like or directly competitive to the goods subject to this application for exemption have recently been produced or sold in Australia by your company. Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods described in the above table, please provide additional information that indicates that the goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature concerning the like or directly competitive goods you produced and sold.

Orrcon has produced and supplied these sizes to a range of customers [*confidential text deleted: customer details*]. Recent production records covering all the sizes listed are included in Confidential Attachment 2. The product descriptions are highlighted and to assist the Commission in understanding the descriptions used in this attachment, refer the tables below:

Product Description	Example: 51 HRSB 2.00 6500 FTUC C350
Outer Diameter	51 = 51 millimetre outside diameter
Steel feed coil - finish	HRSB = Hot roll semi-bright, hot rolled and pickled steel Other steel finish and grades available: MSBL = Mild Steel, Black, hot rolled steel MSBR = Mild Steel Bright SEMB = Semi-bright cold-rolled steel MSGB = Mild steel GALVABOND®, zinc coated steel HTGB = High Tensile GALVABOND®, zinc coated steel ACMS = Aluminium Coated Mild Steel
Wall thickness	2.00 = 2.00 millimetres
Length	6500 = 6,500 millimetres
Weld seam finish	FTUC = Fin-to-under-cut FC = Fin cut
Strength, surface finish or specific quality requirements	C350 = 350MPa minimum yield strength, steel grade S/T = Special tolerance, as agreed with customer UO = Un-Oiled, no rust inhibitor applied to the product

Work Order Number	Product Description	Production Date
	51 HRSB 2.00 6500 FTUC 350	
	51 HRSB 2.00 6500 FTUC 350	
	63.5 HRSB 2.00 6200 FC	
	63.5 HRSB 2.00 6800 FC	
	76.2 HRSB 2.0 6700 FTUC S/T UO	
	76.2 HRSB 2.0 6500 FTUC S/T	

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D.3

Provide evidence of the terms and conditions of sale of these like or directly competitive products. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

Records of recent sales orders and customer invoices are attached covering all the sizes listed in the application, at Confidential Attachments 3 & 4.

The customer details and intended end-use corresponding to these sales records are described in the table below:

[confidential table deleted: commercially sensitive customer and product sales order and invoicing details]

PART E – Capability to Produce Identical or Like or Directly Competitive Products

E.1

If your company has not produced and sold in Australia products that are identical to, or like or directly competitive to the goods subject to this application for exemption, is your company capable of producing such goods?

Yes

No

E.2

If you answered yes to question E.1, indicate whether the product that you can produce is identical to, or like or directly competitive to the goods subject to this application for exemption.

E.3

If you can produce the goods, detail the manufacturing process from start to finish, identifying which party is involved in each stage of the manufacturing process. If third parties are involved, please detail the third party and whether the activity is conducted in Australia or overseas.

E.4

If you are capable of producing identical, like or directly competitive goods, explain why you have not produced such goods.

Provide evidence of your production capability, including evidence of the production and sale of similar products, certification of the identical, like or directly competitive goods and at what cost they could be produced, as well as any plans for the imminent production of the goods or orders for the goods and any relevant information.

E.5

If you are capable of producing identical, like or directly competitive goods, provide reasonable evidence of likely terms and conditions of sale for these goods.

PART F – Additional Comments

F.1

Provide any additional comments including any other information that will assist the commission in reaching a recommendation to the Minister regarding this application for exemption.

Orrcon does not object to the applicant obtaining an exemption for the pipe sizes as described if the description of the goods is limited to: INTERNALLY GROOVED tube.

Orrcon's objection outlined in this response is on the basis of the pipe sizes as described by the application being WITHOUT GROOVES. Pipe sizes without grooves are like and directly competitive to the goods that Orrcon currently manufacture and supply into the Australian market.

PART G – Declaration

I hereby declare that **ORRCON MANUFACTURING PTY LTD** (company) has completed the attached response to application for exemption and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

Name : [REDACTED]

Signature:

[sgd]

Position Company: [REDACTED]

Date: 27th February 2024