PUBLIC RECORD

Australian Government
Department of Industry, Science and Resources

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 685

APPLICATION FOR AN ANTI-CIRCUMVENTION INQUIRY INTO THE SLIGHT MODIFICATION OF GOODS

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

4 September 2025

CONTENTS

ABBREVIATIONS

The Act	*Customs Act 1901*
ABF	Australian Border Force
ADN	Anti-Dumping Notice
The applicant	Orrcon Manufacturing Pty Ltd
the commission	Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the Original Notice	ADN No. 2012/31
the goods	the goods the subject of original notice (HSS)
the circumvention goods	the goods with alleged circumvention activity (also known as torque tubes)
FY2024	Financial year 2024
HSS	Hollow Structural Sections
IDD	interim dumping duty
ICD	interim countervailing duty
China	the People's Republic of China
Korea	the Republic of Korea
EPR	electronic public record
REV 529	Review No. 529
CON 590	Continuation Inquiry No. 590
CON 379	Continuation Inquiry No. 379
REP 379	Anti-Dumping Commission Report No. 379

1 SUMMARY AND RECOMMENDATION

1.1 Introduction

This report outlines the consideration by the Anti-Dumping Commission (the commission) of an application lodged by Orrcon Manufacturing Pty Ltd (Orrcon, or the applicant). The application requests that the Commissioner conduct an anti-circumvention inquiry in relation to the dumping and countervailing duty notice (the original notice - ADN No. 2012/31) applying to hollow structural sections exported to Australia from the People's Republic of China (China), The Republic of Korea (Korea), Malaysia and Taiwan.

Orrcon alleges that exporters have engaged in circumvention activities, through the slight modification of the goods exported to Australia from China to circumvent the original notice.

1.2 Legislative background

Division 5A of Part XVB of the Customs Act 1901 (the Act)[1] sets out, among other things, the legislative requirements and procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in assessing applications for an anti-circumvention inquiry in relation to a notice published under section 269TG(2) or 269TJ(2).

Pursuant to section 269ZDBE(1), the Commissioner must examine the application and within 20 days, decide whether to reject the application. As such, a decision to reject the application must be made no later than 26 August 2025. Section 269ZDBE requires that the Commissioner reject an application for an anti-circumvention inquiry if, among other things, the Commissioner is not satisfied that the application complies with section 269ZDBD. If the Commissioner does not reject an application, they are required to publish a notice on the Anti-Dumping Commission's website indicating that such an inquiry is to be conducted.[2]

Section 269ZDBB(6) provides that circumvention activity, in relation to a dumping and/or countervailing duty notice, occurs in the circumstances prescribed by the *Customs (International Obligations) Regulation 2015* (the Regulation).

Section 48 of the Regulation prescribes the slight modification of goods exported to Australia as a circumvention activity for the purposes of section 269ZDBB(6).

1.3 Findings

The Commissioner has examined the application in accordance with section 269ZDBE of the Act and is satisfied that Orrcon have met the requirements for an application. This is on the basis that the Commissioner is satisfied of the following:

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[1] All legislative references are to the *Customs Act 1901*, unless otherwise stated.

[2] Section 269ZDBE(4).

- the application complies with section 269ZDBD (as set out in section 3.3 of this report) and
- there appear to be reasonable grounds for asserting that there has been circumvention activity, through a slight modification of the goods exported to Australia, in accordance with section 48(2) of the Regulation (as set out in section 3.4 of this report).[3]

Further information on the commission's assessment of the application is included in chapter 3 of this report.

1.4 Decision

Based on the evidence currently available, the Commissioner has decided to **not reject** the application, for the reasons outlined in chapter 3 of this report.

[3] Section 269ZDBE(2)(b).

2 BACKGROUND

2.1 Background to the anti-dumping measures

2.1.1 Original Investigation

On 3 July 2012, the Minister for Home Affairs imposed the anti-dumping measures applying to the goods. This followed the Commissioner's recommendations in the original investigation (Investigation 177). The findings of Investigation 177 are detailed in *International Trade Remedies Branch Report No. 177* (REP 177).[4]

2.1.2 Existing Measures

Table 1 below summarises the anti-dumping measures currently applying to exports of the goods to Australia from China, Korea, Malaysia and Taiwan.

Country	Exporter	Dumping notice		Countervailing duty notice	
		Method	Effective IDD rate	Method	Effective ICD rate
China	Dalian Steelforce	Combination	9.4%	Not applicable (N/A)	
	Huludao City Steel Pipe Industrial Co. Ltd		30.4%	N/A	
	Tianjin Youfa International Trade Co Ltd		6.1%	Proportion of export price	3.3%
	Hengshui Jinghua Steel Pipe Co Ltd		9.4%		0.0%
	Tianjin Ruitong Iron & Steel Co Ltd		1.0%		8.4%
	All other exporters		22%		26.3%
Korea	Kukje Steel Co Ltd	Exempt		N/A	
	Hi-Steel Co Ltd	Exempt			
	All other exporters	Combination	13.8%		
Malaysia	All other exporters	Combination	20.8.%	N/A	
Taiwan	Tension Steel Industries Co. Ltd	Floor Price	N/A	N/A	
	Ta Fong Steel Co. Ltd		N/A		
	Shin Yang Steel Co. Ltd		N/A		
	All other exporters		23.5%		

Table 1: Current anti-dumping measures applying to HSS exported from subject countries

[4] Australian Customs Dumping Notice No. 2012/31 refers. REP 177 is available on the commission's website.

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB by Austube Mills Pty Ltd and Orrcon who represented the Australian industry producing like goods to the goods subject to the anti-dumping measures.

On 21 June 2017, the then Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science varied and secured the continuation of the anti-dumping measures. This followed consideration of the then Commissioner's recommendation in *Anti-Dumping Commission Report No. 379* (REP 379) in Continuation Inquiry No. 379 (CON 379).[5]

On 9 March 2021 following Review No. 529 (REV 529), the then Minister for Industry, Science and Technology, varied the anti-dumping measures with respect to the relevant exporters. The then Minister determined that the dumping duty notice should cease to apply to Korean exporter Kukje Steel Co Ltd following REV 529.

On 30 June 2022, following Continuation Inquiry No. 590 (CON 590), the then Minister for Industry and Science varied the anti-dumping measures and secured the continuation of anti-dumping measures. The then Minister determined that the dumping duty notice should cease to apply to Korean exporter Hi-Steel Co Ltd (Hi-Steel) following CON 590.

[5] ADN No. 2017/70 refers. REP 379 is available on the commission's website.

A background to key cases in relation to the goods is summarised in Table 2.

Case type and report no.	ADN No.	Date	Country of export	Findings
Investigation REP 177	2012/31	3 July 2012	China, Korea, Malaysia and Taiwan	Dumping duty and countervailing duty notices published.
Reinvestigation REP 203	2013/35	13 May 2013	China, Korea, Malaysia and Taiwan	REP 177 affirmed with a variation to the dumping duty notice in relation to Dalian Steelforce.
Federal Court decision[6]	2016/09	17 February 2016	China	Revised dumping duty notice in relation to Dalian Steelforce. Countervailing duty notice no longer applicable to Dalian Steelforce.
Anti-circumvention REP 291	2016/24	18 March 2016	China, Korea and Malaysia	Dumping duty and countervailing duty notice amended to expand tariff classifications covered for certain exporters found to have engaged in a circumvention activity.
Continuation REP 379	2017/70	21 June 2017	China, Korea, Malaysia and Taiwan	Continuation of anti-dumping measures. Variation of the dumping duty and countervailing duty notices.
Review REP 419	2018/74	6 June 2018	China, Korea, Malaysia and Taiwan	Variation of the dumping duty and countervailing duty notices.
Review REP 529	2021/11	9 March 2021	China, Korea, Malaysia, Taiwan (and Thailand)[7]	Variation of the dumping duty and countervailing duty notices. Anti-dumping measures revoked with respect to Kukje.
Continuation REP 590	2022/049	30 June 2022	China, Korea, Malaysia, Taiwan	Continuation of anti-dumping measures. Variation of the dumping duty and countervailing duty notices.

Table 2: Summary of cases undertaken in relation to the goods

Further details concerning the measures can be found on the *Dumping Commodity Register* (DCR) on the commission's website.[8]

[6] ADN No. 2016/09 refers. The judgment in *Dalian Steelforce Hi-Tech Co Ltd v Minister for Home Affairs* [2015] FCA 885 is available on the Federal Court of Australia's website.
[7] Separate anti-dumping measures were imposed in relation to Thailand following Investigation No. 254. However, these measures expired on 27 July 2020 (*Anti-Dumping Commission Report No. 532*).
[8] The DCR is available here

2.2 Background to Application

On 6 August 2025, Orrcon, an Australian industry member producing like goods, lodged an application requesting an inquiry into the alleged circumvention of the anti-dumping measures applying to hollow structural sections exported to Australia from China.

Those measures were imposed on 12 June 2012 under Anti-Dumping Notice (ADN) 2012/31.

In its application, Orrcon, alleges that several importers are importing goods that are slightly modified before export to Australia from China. Specifically, they claim that slightly modified goods exported to Australia from China have been modified by the addition of drill holes, which is not within the description of the goods covered by the original notice. These are referred to as torque tube within the Australia industry. The drill holes permit solar panels to be fitted to the HSS during assembly of solar panel installations. Further information in relation to Orrcon claims is included in chapter 3.3 of this report.

In its application, Orrcon claims that the Minister for Industry and Innovation and the Minister for Science (the Minister) should alter the goods description in the original notice to include the goods which have been slightly modified by the addition of drill holes, either (or both) along the full length of the steel pipe or at the ends. Further information in relation to Orrcon proposed changes to the goods description in their application is included in chapter 3.4.

2.3 The goods the subject of the original notice

2.3.1 Description

The goods subject to the anti-dumping measures are:

> Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections. Normally referred to as either CHS (circular or oval hollow sections) or RHS (rectangular or square hollow sections) collectively referred to as hollow structural sections (HSS), including CHS with other than plain ends, such as threaded, swaged and shouldered.
>
> Finish types:
>
> - Galvanised (including in-line galvanised (ILG), pre-galvanised or hot-dipped galvanised (HDG)); or
> - Non-galvanised (including, but not restricted to, painted, black, lacquered or oiled finishes.
>
> Sizes:
>
> - Circular products – outside diameter exceeding 21 mm up to and including 165.1 mm; or
> - Oval, square and rectangular products – perimeter up to and including 1277.3 mm; that may also be categorised according to minimum yield strength, the most common classifications being 250 and 350 mega Pascals (MPa).
>
> Goods excluded from the measures are:

- 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

2.3.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*: [9]

Tariff Subheading	Statistical Code	Description
7306	OTHER TUBES, PIPES AND HOLLOW PROFILES (FOR EXAMPLE, OPEN SEAM OR WELDED, RIVETED OR SIMILARLY CLOSED), OF IRON OR STEEL:	
7306.30.00	Other, welded, or circular cross-section, of iron or non-alloy steel:	
	Exceeding 21 mm but not exceeding 60.3 mm external diameter:	
	31	Wall thickness not exceeding 2.5 mm
	32	Wall thickness exceeding 2.5 mm but not exceeding 3.6 mm
	33	Wall thickness exceeding 3.6 mm
	Exceeding 60.3 mm but not exceeding 114.3 mm external diameter:	
	34	Wall thickness not exceeding 3.2 mm
	35	Wall thickness exceeding 3.2 mm but not exceeding 4.5 mm
	36	Wall thickness exceeding 4.5 mm
	37	Exceeding 114.3 but not exceeding 165.1 mm external diameter
7306.50.00	45	Other, welded, or circular cross-section, of other alloy steel
7306.6	Other welded, of non-circular cross-section:	
7306.61.00	Of square or rectangular cross-section of iron or non-alloy steel:	
	Not exceeding 279.4 mm perimeter:	
	21	Wall thickness not exceeding 2 mm
	22	Wall thickness exceeding 2 mm
	25	Exceeding 279.4 mm
	90	Other

[9] These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for reference. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

Tariff Subheading	Statistical Code	Description
7306.69.00	10	Of other non-circular cross-section

Table 3: General tariff classification for the goods

The original notice ADN No. 2012/31 described the goods as:

> *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) in Schedule 3 of the Customs Tariff Act 1995.*

Following anti-circumvention inquiry 291 in ADN No. 2016/24, the then Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science amended the description of the goods in the original notice, as follows:

Section 269TG(2) notice

> *certain hollow structural sections (the goods) 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) in Schedule 3 of the Customs Tariff Act 1995.*
>
> *and*
>
> *certain hollow structural sections (the goods) classified to tariff subheadings 7306.50.00 (statistical code 45) and 7306.61.00 (statistical code 90) exported from:*
> - *China by Dalian Steelforce Hi-Tech Co.;*
> - *China by Tianjin Friend Steel Pipe Co., Ltd;*
> - *China by Tianjin Ruitong Iron and Steel Co., Ltd;*
> - *China by Roswell S A R L Limited; Malaysia by Alpine Pipe Manufacturing SDN BHD.*

Section 269TJ(2) notice

> *certain hollow structural sections (the goods) 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) in Schedule 3 of the Customs Tariff Act 1995.*
>
> *and*
>
> *certain hollow structural sections (the goods) classified to tariff subheadings 7306.50.00 (statistical code 45) and 7306.61.00 (statistical code 90) exported from:*
> - *China by Dalian Steelforce Hi-Tech Co.;*
> - *China by Tianjin Friend Steel Pipe Co., Ltd;*
> - *China by Tianjin Ruitong Iron and Steel Co., Ltd;*
> - *China by Roswell S A R L Limited.*

During the conduct of the inquiry, the commission may consider alterations to the tariff classifications referenced by the original notice.

2.4 The current anti-circumvention application

Orrcon alleges in its application that several importers are importing goods that are slightly modified before export to Australia from China. Specifically, they claim that slightly modified goods exported to Australia from China have been modified by the addition of drill holes, either (or both) along the full length of the steel pipe or at the ends which is not within the description of the goods covered by the original notice. These are referred to as torque tube within the Australia industry. The drill holes permit solar panels to be fitted to the HSS during assembly of solar panel installations. Further information in relation to Orrcon's claims are included in chapter 3.4 of this report.

In its application, Orrcon considers that the Minister should alter the goods description pursuant to section 269ZDBH(1) in the original notice to include any HSS that has been drilled at the end or along the length of the section. Further information in relation to Orrcon's proposed changes to the goods description is included in Chapter 3.5.

3 CONSIDERATION OF THE APPLICATION

3.1 Introduction

This chapter sets out the commission's consideration of the application.

Under section 269ZDBE(2)(a) and (b), the Commissioner must, upon receiving the application, examine it and consider two criteria in relation to the application:

- whether the application complies with the content and lodgement requirements set out in section 269ZDBD (chapter 3.3)
- whether there appear to be reasonable grounds for asserting that one or more circumvention activities have occurred, in this case, whether there has been a slight modification of the goods (chapter 3.4).

For the reasons outlined in chapters 3.3 and 3.4, the Commissioner is satisfied that Orrcon has met the above criteria and has decided to **not reject** the application for the conduct of an anti-circumvention inquiry.

3.2 Legislative background

Section 269ZDBD(1) requires that an application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that can be required by the form, section 269ZDBD(2) provides that an application must include:

- a description of the kind of goods that are the subject of the original notice; and
- a description of the original notice the subject of the application; and
- a description of the circumvention activities in relation to the original notice that the applicant considers have occurred; and
- a description of the alterations to the original notice that the applicant considers should be made.

The approved form (B1236) further requires the applicant to provide evidence to support its view that the circumvention activity has occurred.

For the purpose of section 269ZDBB(6), a circumvention activity involving the 'slight modification of goods' requires a circumstance in which all of the following, as set out in section 48(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation), apply:

a) goods (the ***circumvention goods***) are exported to Australia from a country in respect of which the notice applies;
b) before that export, the circumvention goods are slightly modified;
c) the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified;
d) had the circumvention goods not been so slightly modified, they would have been the subject of the notice; and,

e) section 8 or 10 of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), as the case requires, does not apply to the export of the circumvention goods to Australia.

For the purpose of determining whether there appear to be reasonable grounds for asserting that a circumvention good in this instance has been slightly modified, the Commissioner must compare the circumvention goods and the goods the subject of the original notice, having regard to any factor they considered relevant and the factors described in section 48(3) of the Regulation.

3.3 Assessment of the application

When considering whether the requirements of sections 269ZDBD(1) and (2) have been met, the commission notes that the application submitted by Orrcon:

- was in writing
- was in the approved form (*Form B1236 – Application for an anti-circumvention inquiry*), and contains such information as the form requires
- was signed in the manner required by the form
- was lodged in a manner approved under section 269SMS, being by email to the commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS)
- provided a description of the kind of goods that are the subject of the original notice, and describes the original notice the subject of the application
- provided a description of the circumvention activity in relation to the original notice that has allegedly occurred and
- provided a description of the alterations to the original notice that should be made.

3.4 Reasonable grounds for asserting a circumvention activity has occurred

To consider the circumstances relevant to the slight modification of goods exporter to Australia, the commission considered the factors listed in section 48(2) of the Regulation.

3.4.1 Are alleged circumvention goods exported to Australia from China?

In its application, Orrcon alleges that import volumes for the circumvention goods exported from China increased since the then Minister published the original notice on 12 July 2012. Orrcon alleges that there has been a substitution of volumes of the goods to the alleged circumvention goods.

To assess whether there appear to be reasonable grounds for Orrcon to assert that exporters are exporting the circumvention goods into the Australian market, the commission analysed data on declared import consignments as reported in the Australian Border Force (ABF) import database.

Figure 1 illustrates the volume of goods and alleged circumvention goods exported to Australia from China, Korea, Malaysia and Taiwan from FY2013 (the year the original notice imposing measures was published) to FY2025.

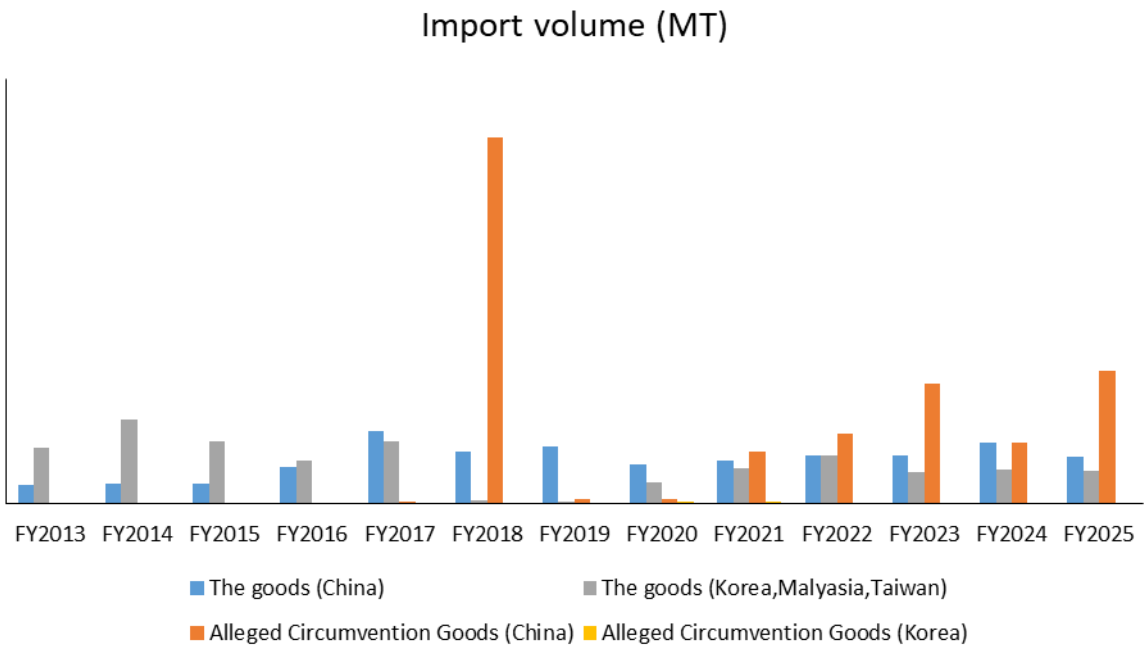

Figure 1: Imports of the alleged circumvention goods and the goods[10]

Figure 1 shows that the alleged circumvention goods appeared in the Australian market in FY2017 before a sharp increase in volumes in FY2018. Since FY2021 the imports of alleged circumvention goods have maintained a strong presence in the Australian market. The alleged circumvention goods are declared under the tariff subheading 7308.90.00 in *Schedule 3 of the Customs Tariff Act 1995*. The commission observed that imports of the goods (HSS) from China had their highest volume in FY2017 but have not reached the same levels in any year since. The commission also found a small volume of alleged circumvention goods imported into Australia from Korea in FY2020 and FY2021 under the tariff subheading 7308.90.00. This volume of alleged circumvention goods from Korea are not visually discernible in Figure 1. The commission did not find any alleged circumvention goods imported into Australia from Malaysia or Taiwan.

Based on the commission's analysis and the evidence provided by Orrcon in its application, the Commissioner is satisfied that there appear to be reasonable grounds for the applicant to assert that the alleged circumvention goods are exported to Australia from China, and that the alleged circumvention goods have replaced the goods in the Australian market.

3.4.2 Are the alleged circumvention goods slightly modified before export?

Orrcon alleges in its application that several importers are importing goods that are slightly modified before export to Australia from China. Specifically, they claim that slightly modified goods exported to Australia from China have been by the addition of drill holes,

[10] Confidential Attachment 1 – ABF import data analysis. The commission notes that small volumes of the alleged circumvention goods from Korea were imported in FY2020 and FY2021. These volumes are not discernible in Figure 1.

either (or both) along the full length of the steel pipe or at the ends, which is not within the description of the goods covered by the original notice.

Section 48(3) of the Regulation provides that, for the purpose of determining whether a circumvention good is slightly modified, the Commissioner must compare the circumvention good and the good the subject of the notice. In making the comparison, the Commissioner may have regard to any relevant factor, including the factors set out in section 48(3) of the Regulation.

Table 4 provides the commission's preliminary assessment of these factors.

Factor listed under section 48(3) of the Regulation	Commission's preliminary assessment
(a) each good's general physical characteristics	The primary physical characteristics of the alleged circumvention goods and the goods are that both are circular and non-circular HSS, with the existence of drill holes being the only physical difference. The Commissioner preliminarily assesses that the general physical characteristics are the same between the goods and the alleged circumvention goods (except for the specified drilled holes).
(b) each good's end use	Based on the applicant's claim, the Commissioner preliminarily assesses that the alleged circumvention goods have identical end use as the goods subject to the original notice, as structural steel framework for solar panels. This evidence will require further consideration during the course of the inquiry. There are no substantive findings at this stage with respect to whether circumvention activities in relation to the original notice have occurred.
(c) the interchangeability of each good	Based on the applicant's description for the Australian market and sales channels, the Commissioner preliminarily assesses that the alleged circumvention goods and the goods can be used interchangeably. This evidence will require further consideration during the course of the inquiry. There are no substantive findings at this stage with respect to whether circumvention activities in relation to the original notice have occurred.
(d) differences in the processes used to produce each good	Based on the commission's understanding of the production process for the goods, the Commissioner preliminarily assesses that the goods and the alleged circumvention goods are produced in the same manner, except for the additional process step of drilling holes. This evidence will require further consideration during the course of the inquiry. There are no substantive findings at this stage with respect to whether circumvention activities in relation to the original notice have occurred.
(e) differences in the cost to produce each good	Based on the cost calculations submitted by the applicant, the Commissioner preliminarily assesses that there is a negligible difference in the cost to produce each good. The commission will seek to obtain further information from manufacturers of the goods and alleged circumvention goods during the inquiry to further assess this claim.
(f) the cost of modification	Based on the cost calculations submitted by the applicant, the Commissioner preliminarily assesses that the cost of modification is minimal compared to the total manufacturing cost of the goods. The commission will seek to obtain further information from manufacturers of the goods and alleged circumvention goods during the inquiry to further assess this claim.

Factor listed under section 48(3) of the Regulation	Commission's preliminary assessment
(g) customer preferences and expectations relating to each good	Based on the applicant's description of customers and Australian market sales channels, the Commissioner preliminarily assesses that customers have the same preferences and expectations relating to each good. The commission will seek to obtain further information from customers and participants in the Australian market during the inquiry to further assess this claim.
(h) the way in which each good is marketed	Based on the marketing and technical literature provided by the applicant, the Commissioner preliminarily assesses that the goods and the alleged circumvention goods are marketed for use with the same standard of AS/NZS 1163, being the standard used to market the end use of hollow structural sections. This evidence will require further consideration during the course of the inquiry. There are no substantive findings at this stage with respect to whether circumvention activities in relation to the original notice have occurred.
(i) channels of trade and distribution for each good	Based on the applicant's description of trade and distribution channels, the commission understands that the applicant sells HSS to steel processors who undertake the drilling process. The drilled HSS are then sold to original equipment manufacturers (OEMs). Chinese exporters supply the goods and alleged circumvention goods directly to Australian solar OEMs. The Commissioner preliminarily assesses that there is no material difference in the channels of trade between the goods and the alleged circumvention goods. This evidence will require further consideration during the course of the inquiry. There are no substantive findings at this stage with respect to whether circumvention activities in relation to the original notice have occurred.
(j) patterns of trade for each good	Based on the information provided by the applicant in its application and the analysis of the ABF import data, the Commissioner preliminarily assesses that the patterns of trade appear to support the alleged circumvention goods displacing the goods. The commission will seek to obtain further information during the course of the inquiry in order to assess this claim.
(k) changes in the pricing of each good	Based on the price assessment provided by the applicant in its application and the commission's analysis of ABF import data, the Commissioner preliminarily assesses that alleged circumvention goods are priced lower than the equivalent Australian industry price. The commission notes that the ABF import data analysis contained at Confidential Appendix 1 shows large fluctuations in the calculated average price of alleged circumvention goods. The commission will seek to obtain further information during the course of the inquiry in order to assess this claim.
(l) changes in the export volumes for each good	Based on the information provided by the applicant in its application and the commission's analysis of ABF import data, the Commissioner preliminarily assesses the export volumes for the goods appears to decrease while the volume of alleged circumvention goods increased. This evidence will require further consideration during the course of the inquiry.

Factor listed under section 48(3) of the Regulation	Commission's preliminary assessment
(m) tariff classifications and statistical codes for each good	Based on the commission's analysis of ABF import data contained at Confidential Appendix 1, the commission observes that the alleged circumvention goods are imported under different tariff statistical code subheadings than those referenced by the original notice.

Table 4: Comparison of the goods and the alleged circumvention goods

Having regard to the factors listed in Table 4, where a preliminary assessment of the relevant factor is possible at this point, the Commissioner is satisfied that there appear to be reasonable grounds for the applicant to assert that the alleged circumvention goods are slightly modified before exportation to Australia.

3.4.3 Is the use or purpose of the circumvention goods the same before, and after, they are so slightly modified?

Orrcon alleges that the use and purpose of the circumvention goods and the goods are the same as they are both used as supporting structural steel framework for solar panels. Further, Orrcon alleges that the circumvention goods and the goods can be used interchangeably in the end use application.

In its application, Orrcon provided marketing information to support its assertions that the goods and the circumvention goods can be used interchangeably. The information asserts that the circumvention goods are marketed for the same end-use applications as the end-use application of the goods subject to the original notice, being used as supporting structural steel framework for solar panels.

Based on this information, the Commissioner is satisfied that there appear to be reasonable grounds for the applicant to assert that the use or purpose of the circumvention goods primarily have the same use or purpose before and after they are modified.

3.4.4 Had the circumvention goods not been slightly modified, would they have been the subject of the original notice?

Orrcon alleges that, but for the circumvention goods not being so slightly modified, they would have been subject to the original notice.

As specified in the goods description outlined in section 2.3 of this report, the goods subject to the original notice encompass Hollow Structural Sections including circular hollow sections and rectangular or square hollow sections.

The alleged circumvention goods are imported under tariff headings different than those specified by the original notice.

The Commissioner is satisfied that there appear to be reasonable grounds for the applicant to assert that, had the alleged circumvention goods not been so slightly modified, they would have been subject to the notice.

3.4.5 Does section 8 of the Dumping Duty Act apply to the circumvention goods?

The Commissioner is satisfied that there appear to be reasonable grounds for the applicant to assert that the alleged circumvention goods do not fall within the description of the goods the subject of the original notice and accordingly, that they are not subject to the dumping duty notice under section 269TG(2). The Commissioner is satisfied that section 8 of the Dumping Duty Act does not apply to the export of the alleged circumvention goods to Australia from China.

3.5 Applicant's proposed alterations to the original notice

Section 269ZDBH(1) provides that the Minister may declare alterations to the original notice. Without limiting section 269ZDBH(1), section 269ZDBH(2) provides that the alterations may be of the following kind:

a) the specification of different goods that are to be subject to the original notice
b) the specification of different foreign countries that are to be the subject of the original notice
c) the specification of different exporters that are to be the subject of the original notice
d) the specification of different variable factors in respect of existing exporters the subject of the original notice and
e) the specification of variable factors in respect of exporters that are to be the subject of the original notice.

3.5.1 Proposed alterations to the goods description

Orrcon considers that the Minister should alter the goods description of the original notice to deter circumvention by the slight modification of adding drill holes. Orrcon proposes that the Minister alter the description of the goods as follows (with finish types, sizes and exclusions remaining the same as the existing goods description):

> *Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections. Normally referred to as either CHS (circular or oval hollow sections) or RHS (rectangular or square hollow sections) collectively referred to as hollow structural sections (HSS). This includes CHS with other than plain ends, such as threaded, swaged and shouldered, and any HSS that has been drilled at the end or along the length of the section.*

Orrcon proposed for the amended Notice to apply to all Chinese exporters.

The commission will consider the proposed changes during the conduct of the inquiry.

3.5.2 Tariff classification

The alleged circumvention goods may be classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff Subheading	Statistical Code	Description
7308	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF 9406) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGE-SECTIONS, LOCK-GATES, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAMEWORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, SHUTTERS, BALUSTRADES, PILLARS AND COLUMNS), OF IRON OR STEEL; PLATES, RODS, ANGLES, SHAPES, SECTIONS, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES, OF IRON OR STEEL	
7308.90	Columns, pillars, posts and beams, girders, bracing, gantries, brackets, struts, ties and similar structural units:	
7308.90.00	52	..Hot rolled
7308.90.00	56	.Other
7308.90.00	65	Other

Table 5: General tariff classification for the alleged circumvention goods[11]

3.6 Conclusion

As set out in section 3.3, the Commissioner is satisfied that the application has met the content and form requirements of sections 269ZDBD(1) and (2).

As set out in section 3.4, the Commissioner is satisfied that there appear to be reasonable grounds for asserting, under section 269ZDBE(2)(b), that a circumvention activity in relation to the original notice has occurred in the form of a slight modification of the goods, as per the circumstances prescribed in section 48(2) of the Regulation.

Therefore, the Commissioner has decided **not to reject** the application pursuant to section 269ZDBE(1).

As outlined above, the assertions made by Orrcon will require further examination by the commission during the course of the inquiry. No findings of fact have been made at this stage by the Commissioner about whether circumvention activities in relation to the original notice have occurred.

Pursuant to section 269ZDBE(6)(c), the anti-circumvention inquiry will examine whether circumvention activities in relation to the original notice have occurred.

In accordance with section 269ZDBEA, if, during the conduct of the inquiry and before the publication of the statement of essential facts, evidence becomes available that satisfies the Commissioner that that no circumvention activity in relation to the original notice has occurred, the Commissioner may terminate the anti-circumvention inquiry.

[11] The application referred to tariff subheading 7308.90.00 (statistical code 65). The commission also found some alleged circumvention goods imported under other tariff classifications and statistical codes from ABF import data. The commission will investigate further during the course of the inquiry.

4 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	ABF import data analysis