



CUSTOMS ACT 1901 - PART XVB

**STATEMENT OF ESSENTIAL FACTS  
NO 685**

**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**

**23 March 2026**

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## PUBLIC RECORD

### ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant, or Orrcon	Orrcon Manufacturing Pty Ltd
ATM	Austube Mills Pty Ltd
the circumvention goods	the goods with alleged circumvention activity (also known as torque tubes)
the commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
the goods	the goods the subject of original notice (HSS)
the original notice	ADN 2012/31
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
China	the People's Republic of China
CNC	Computer Numerical Control
DCR	Dumping Commodity Register
EPC	engineering, procurement and construction firm
EPR	electronic public record
FY	financial year
HDG	hot-dipped galvanised
HSS	hollow structural sections
ICD	interim countervailing duty
IDD	interim dumping duty
ILG	in-line galvanised
Korea	the Republic of Korea
the Minister	Minister for Industry and Innovation and Minister for Science
Nextpower	Nextpower Australia Pty Ltd
OEM	original equipment manufacturer
REP 177	<i>Anti-Dumping Commission Report No 177</i>
SEF	statement of essential facts
Tariff Act	<i>Customs Tariff Act 1995 (Cth)</i>

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base their recommendations to the Minister for Industry and Innovation and Minister for Science (the Minister) concerning anti-circumvention inquiry no 685 (the inquiry).

The inquiry is in response to an application lodged by Orrcon Manufacturing Pty Ltd (Orrcon, or the applicant) alleging anti-circumvention in relation to the dumping and countervailing duty notice (the original notice – Anti-Dumping Duty Notice (ADN) No 2012/31) applying to hollow structural sections (HSS) exported to Australia from the People’s Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan. A copy of the application can be found on the electronic public record (EPR) on the Anti-Dumping Commission (the commission) website.<sup>1</sup>

Orrcon alleged that exporters of the goods from China have exported slightly modified goods to avoid those goods being subject to the original notice. This circumvention activity is prescribed by section 48 of the *Customs (International Obligations) Regulation 2015* (Cth) (the Regulation).<sup>2</sup> In its application, Orrcon alleges that several importers are importing goods that are slightly modified before export to Australia from China. Specifically, it claims 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. Such slightly modified goods are referred to in this report as the circumvention goods.<sup>3</sup>

This inquiry was conducted in accordance with the legislative requirements for an anti-circumvention inquiry and therefore did not consider any other matters, including, for example, whether the goods or circumvention goods are being dumped in the Australian market or whether the Australian industry is being injured by the imports of the circumvention goods.

The Commissioner’s final recommendations to the Minister will be contained in a report due by 7 May 2026.

## 1.2 Preliminary findings

Based on the evidence before the commission, the Commissioner preliminarily considers a circumvention activity in relation to the original notice has occurred.

The Commissioner has reached this preliminary conclusion being satisfied that all the circumstances set out in section 48(2) of the Regulation apply, as follows:

- the circumvention goods are exported to Australia from a foreign country in respect of which the notice applies, namely China

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<sup>1</sup> EPR 685, item 1.

<sup>2</sup> Section 48 of the Regulation lists all of the circumstances that must apply in order for there to be a ‘slight modification of goods’ circumvention activity.

<sup>3</sup> Chapters 2.2 and 2.3 set out the goods and the circumvention goods in greater detail.

- before that export, the circumvention goods are slightly modified
- the use or purpose of the circumvention goods is the same before, and after, they are slightly modified
- had the circumvention goods not been so slightly modified, they would have been the subject of the notice, and
- section 8 of the Dumping Duty Act does not apply to the export of the circumvention goods to Australia.

In reaching this preliminary conclusion, the Commissioner considered submissions made by interested parties in respect of the inquiry. Chapter 3 discusses these submissions.

### 1.3 Proposed recommendation

Based on the findings outlined in this SEF, and subject to any submissions received in response, the Commissioner proposes to recommend that the Minister alter the original notice to the following [bolded text denotes the addition to the 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), including 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.***

The Commissioner proposes to recommend this alteration take effect from the date of publication of the notice initiating this inquiry (the inquiry notice), being 4 September 2025.<sup>4</sup>

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<sup>4</sup> Read together, sections 269ZDBH(1)(b) and 269ZDBH(8) require that any alteration to the original notice must not take effect earlier than the day of publication of a notice under section 269ZDBE(4) or (5) about the conduct of an inquiry in relation to the original notice. For this inquiry, the Commissioner published such notice under section 269ZDBE(4) (ADN 2025/084) on 4 September 2025 – initiation date.

## 2 BACKGROUND

### 2.1 Introduction

This chapter discusses the original notice, Orrcon’s application and the inquiry notice. It also provides detail on the circumvention goods and sets out the legislative framework for conducting inquiries.

### 2.2 The current notice

#### 2.2.1 The original investigation and subsequent cases

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

The then Minister for Home Affairs published the original notice on 12 June 2012 (ADN 2012/31) after consideration of *International Trade Remedies Report No 177* (REP 177).

The original notice has been continued twice and amended multiple times since 2012, following various reviews, continuation inquiries, and a previous anti-circumvention inquiry. The anti-dumping measures were most recently continued on 30 June 2022, following the then Minister for Industry and Science’s consideration of *Anti-Dumping Commission Report No 590*. The then Minister determined that the dumping duty notice should cease to apply to Korean exporter Hi-Steel Co Ltd and continued the measures for all other exporters until 3 July 2027.

A background to key cases in relation to the goods is summarised in Table 1.

Case type and report no.	ADN	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 <sup>5</sup>	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.

<sup>5</sup> ADN 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.

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Case type and report no.	ADN	Date	Country of export	Findings
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) <sup>6</sup>	Variation of the dumping duty and countervailing duty notices. Anti-dumping measures revoked with respect to Kukje Steel Co Ltd.
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 1 Summary of cases undertaken in relation to the goods**

### 2.2.2 Current cases in relation to the goods

There are 2 concurrent cases in relation to the measures:

- Accelerated review 697 – an accelerated review of the variable factors applicable to a new exporter from Korea, Nexteel Co., Ltd.<sup>7</sup>
- Exemption inquiry EX0104 – an inquiry to determine whether certain goods subject to a tariff concession order should be exempt from the anti-dumping measures.<sup>8</sup>

The Commissioner is due to report his findings in relation to review 697 to the Minister by 20 April 2026, while there is no statutory timeframe for EX0104. Neither case is expected to impact the analysis or findings of this anti-circumvention inquiry.

### 2.2.3 Current measures applying to the goods

Table 2 provides the current measures applying to the goods exported from China, Korea, Malaysia and Taiwan.

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<sup>6</sup> 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*).

<sup>7</sup> Further information on case 697 can be found on the EPR [here](#).

<sup>8</sup> Further information on EX0104 can be found on the EPR [here](#).

Country	Exporter	Dumping notice		Countervailing 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 2: Current anti-dumping measures applying to HSS exported from subject countries**

Further details concerning the measures can be found on the *Dumping Commodity Register* (DCR) on the commission's website.<sup>9</sup>

#### 2.2.4 The goods subject to current measures

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*

<sup>9</sup> The DCR is available [here](#).

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- *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*

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* (Tariff Act):<sup>10</sup>

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
7306.69.00	10	Of other non-circular cross-section

**Table 3: General tariff classification for the goods**

<sup>10</sup> These tariff classifications and statistical codes may include goods that are both subject and not subject to the notice. The listing of these tariff classifications and statistical codes is for reference only and do not form part of the goods description.

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The original notice, ADN 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 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.

### **2.3 The circumvention goods alleged in the application**

The application described the alleged circumvention goods as hollow structural sections that have been modified in a minor way by the addition of drill holes, either (or both) along the full length of the steel pipe or at the ends but otherwise meet the description of the goods the subject of the original notice.

While considering the application, the commission examined Orrcon's evidence of imports of the circumvention goods from China, along with data from the Australian Border Force (ABF) import database. The commission was satisfied that there appeared to be reasonable grounds for Orrcon's assertions.

## **2.4 Legislative provisions – conduct of an anti-circumvention inquiry**

Division 5A of Part XVB also sets out the procedures the Commissioner must follow in conducting an anti-circumvention inquiry. In particular:

- Section 269ZDBB sets out when a circumvention activity occurs in relation to a notice published under section 269TG(2).
- Section 269ZDBB(6) provides that a circumvention activity occurs in the circumstances prescribed by 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).
- Section 269ZDBF(1)(a) requires the Commissioner to place a SEF on the public record within 110 days after the publication of the inquiry notice (or such longer period as allowed) which sets out the essential facts on which the Commissioner proposes to base a recommendation to the Minister.
- Section 269ZDBG requires, for this inquiry, that the Commissioner give the Minister a recommendation within 155 days after publication of the inquiry notice (or such longer period as allowed).<sup>11</sup> In making a recommendation to the Minister, the Commissioner must have regard to the application, the SEF and submissions received prior to and following the SEF.

Section 269ZDBH(1) further provides that the Minister must declare, after considering the Commissioner's report and any other information the Minister considers relevant, that:

- the original notice is to remain unaltered,<sup>12</sup> or
- the alterations specified in the declaration are taken to have been made to the original notice, with effect on and after a day specified in the declaration.<sup>13</sup>

## **2.5 Legislative provisions – slight modification of goods**

As this inquiry concerns the slight modification of goods, section 48(2) of the Regulation is relevant. Section 48(2) prescribes a circumstance when circumvention activity occurs. Circumvention activity occurs when all of the following apply:

- a) goods (the *circumvention goods*) are exported to Australia from a foreign country in respect of which the notice applies
- b) before that export, the circumvention goods are slightly modified

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<sup>11</sup> See section 269ZDBG(1)(a); section 269ZDBG(1)(b) provides for a different period for the circumvention activity described in section 269ZDBB(5A).

<sup>12</sup> Section 269ZDBH(1)(a).

<sup>13</sup> Section 269ZDBH(1)(b).

- 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
- e) section 8 of the Dumping Duty Act does not apply to the export of the circumvention goods to Australia.

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, having regard to any factor that the Commissioner considers relevant, including any of the following factors:

- a) each good's general physical characteristics
- b) each good's end use
- c) the interchangeability of each good
- d) differences in the processes used to produce each good
- e) differences in the cost to produce each good
- f) the cost of modification
- g) customer preferences and expectations relating to each good
- h) the way in which each good is marketed
- i) channels of trade and distribution for each good
- j) patterns of trade for each good
- k) changes in the pricing of each good
- l) changes in the export volumes for each good
- m) tariff classifications and statistical codes for each good.

Chapter 4.2 examines each of these factors.

## **2.6 Responding to this SEF**

The SEF may not represent the Commissioner's final view of the findings. The commission invites interested parties to make written submissions in response to this SEF for the Commissioner's consideration. Interested parties who wish to make written submissions in response to this SEF must do so no later than **13 April 2026**, which is within 20 days after the SEF being placed on the public record.

The Commissioner is not obliged to have regard to a submission made in response to the SEF received after 13 April 2026 if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.<sup>14</sup>

Submissions may be lodged by email to [investigations2@adcommission.gov.au](mailto:investigations2@adcommission.gov.au).

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<sup>14</sup> Section 269ZDBG(3).

## **PUBLIC RECORD**

Alternatively, submissions may be posted to:

The Director, Investigations 2  
Anti-Dumping Commission  
GPO Box 2013  
Canberra, ACT 2601 AUSTRALIA

Confidential submissions must be clearly marked as 'OFFICIAL: Sensitive'. A non-confidential version of the submission, marked 'PUBLIC RECORD', is required for the public record. A guide for making submissions is available on the commission's website.<sup>15</sup>

The EPR contains non-confidential submissions from interested parties, non-confidential versions of the commission's verification reports and other publicly available documents. Interested parties should read this SEF in conjunction with other documents on the EPR.

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<sup>15</sup> A guide for making submissions is available [here](#).

## 3 CONDUCT OF THE INQUIRY

### 3.1 Introduction

This chapter sets out the Commissioner's conduct of the inquiry. The commission assisted the Commissioner in conducting the inquiry and preparing this SEF, pursuant to its function specified in section 269SMD.

#### 3.1.1 Inquiry period

The Commissioner established an inquiry period commencing 1 July 2012 to 30 June 2025 (the inquiry period) for the purposes of assessing whether a circumvention activity has occurred.

The Commissioner chose the inquiry period to assess patterns of trade before and after the Minister published the original notice in June 2012, which is relevant to the factors in section 48 of the Regulation.

#### 3.1.2 Statement of essential facts

The Commissioner is required in preparing this SEF to have regard to the application and any submissions concerning the inquiry received within 37 days after the publication of the notice of initiation of this inquiry (inquiry notice).<sup>16</sup>

The Commissioner accordingly invited interested parties to lodge written submissions with the commission no later than 13 October 2025 (being the first business day following 37 days after publication of the inquiry notice). The Commissioner approved an extension of time to publish this SEF by 23 March 2026.

In preparing this SEF, the Commissioner may also have regard to any other matters that the Commissioner considers relevant. To this end, the Commissioner had regard to information from the following sources:

- data on declared import consignments from China, Korea, Malaysia and Taiwan as reported in the ABF import database
- questionnaire responses from Australian industry and exporters/importers of the goods or the circumvention goods

Chapters 3.2, 3.3, 3.4, 3.5, 4 and 4.2 discuss this information.

This SEF sets out the essential facts on which the Commissioner proposes to base a recommendation to the Minister. Interested parties are invited to respond to the issues raised within 20 days of this SEF being placed on the public record, in accordance with section 269ZDBE(6)(g).

#### 3.1.3 Recommendation to the Minister

The approved extension of time advised that the Commissioner would make a recommendation to the Minister in a report on or before 7 May 2026.<sup>17</sup>

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<sup>16</sup> Section 269ZHE(2).

<sup>17</sup> EPR 685, item 7.

In making final recommendations to the Minister, the Commissioner must have regard to submissions made in response to the SEF received by the Commissioner within 20 days of the Commissioner putting the SEF on the public record. The Commissioner may have regard to any other matter that the Commissioner considers to be relevant to the inquiry.

## **3.2 ABF import database**

In conducting this inquiry, the commission examined declared import consignments in the ABF import database for the inquiry period.

Since the then Minister published the original notice on 12 June 2012,<sup>18</sup> importers have self-assessed their circumstances when making an import declaration under the applicable tariff subheadings and populated certain fields which identify whether the imported goods are subject to, or are exempt from, interim dumping duties (IDD) and the identity of the exporter.

These fields allow the commission to easily identify the goods and exempt goods. The ABF import database does not include such specific fields for import declarations prior to 12 June 2012.

## **3.3 Scope of Inquiry**

### **3.3.1 Australian industry questionnaire**

The Commissioner is satisfied that the applicant, Orrcon, is the member of the Australian industry producing like goods to the goods the subject of this inquiry.

The commission visited Orrcon on 3 December 2025 to discuss the goods (HSS), the circumvention goods and the claims made in its application, and collect any relevant evidence to support Orrcon's claims. The visit included an inspection of Orrcon's production facilities in Salisbury Hill and Northgate, QLD.

### **3.3.2 Exporter and importer questionnaires**

On the same day as the publication of the inquiry notice, the commission published on the EPR questionnaires for exporters and importers of the goods. Each questionnaire contained different requests for information, depending on whether the respondent was an exporter or importer. Any exporter or importer of the goods from China could complete a questionnaire.

The due date for responses to the exporter questionnaire was 13 October 2025 (the same due date for submissions). Importers had until 11 September 2025 to provide an initial response to the importer questionnaire (RIQ) with basic information and then until 13 October 2025 to provide a complete response.

### **3.3.3 Exporters and importers directly contacted**

The commission identified 6 exporters and 7 importers in the ABF import database who had possibly been involved in trade of the circumvention goods from China and Korea

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<sup>18</sup> REP 177, ADN 2012/31.

since 12 June 2012. The commission sent questionnaires to these exporters and importers on the date of initiation.

### **3.3.4 Exporter and importer questionnaire responses**

The commission subsequently received one RIQ, from Nextpower Australia Pty Ltd (Nextpower), and no responses to the exporter questionnaire.

Nextpower supplies utility-scale solar tracker systems in which torque tubes are a core structural element. Nextpower provided a list of its torque tube suppliers, sales and forward orders. The commission met virtually with Nextpower to discuss its RIQ and gather evidence relevant to the inquiry. A file note record of this meeting is on the EPR.<sup>19</sup> After the meeting, Nextpower provided import documentation (bill of lading, commercial invoice, packing list, certificate of origin, packing declaration) for selected shipments of torque tube. The documents confirmed the goods were entered under tariff code 7308.90.00. The commission was able to identify imports by Nextpower in the ABF import database and is satisfied that Nextpower is an importer of torque tube.

### **3.3.5 Submissions received from interested parties**

In formulating the SEF, the Commissioner must have regard to the application and any submissions received within 37 days of the initiation of the inquiry.<sup>20</sup> The Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the 37 days if to do so would, in the Commissioner’s opinion, prevent the timely placement of this SEF on the EPR.<sup>21</sup> The Commissioner may also have regard to any other matters he considers relevant.

The commission has received 3 submissions which the Commissioner has considered in this SEF (see Table 4). Non-confidential versions of these submissions are on the EPR.

<b>EPR item no</b>	<b>Interested party</b>	<b>Date lodged</b>	<b>Issues raised</b>	<b>Chapter reference</b>
4	ATM	2 December 2025	ATM submitted that certain Chinese exporters are circumventing anti-dumping measures on HSS by making minor modifications—such as attaching brackets, drilling or punching holes, and performing superficial fabrication—to reclassify goods under tariff codes not subject to duties, supported by photographic evidence and market intelligence showing deliberate and ongoing circumvention.	4.2.1
5	ATM	16 December 2025	ATM submitted that its continued investigation has identified importers using superficial modifications to HSS to reclassify goods under alternative tariff codes and evade anti-dumping duties.	4.2.1

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<sup>19</sup> EPR 685, item 8.

<sup>20</sup> Section 269ZHE(2).

<sup>21</sup> Section 269ZHE(3).

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EPR item no	Interested party	Date lodged	Issues raised	Chapter reference
6	Orrcon	19 December 2025	Orrcon submitted that evidence from ATM shows exporters drilling or punching holes in HSS to circumvent anti-dumping duties and requested the commission to prioritize a finding that such modifications constitute circumvention by slight modification.	4.2.1

**Table 4: Submissions received from interested parties**

For the purpose of this inquiry, the commission has limited the scope of this inquiry to the circumvention activity set out in Orrcon’s application and described in the inquiry notice - that is, the addition of drilled holes to HSS before export. While ATM raised other types of minor modifications in its submissions, the commission reviewed that material and decided not to expand the inquiry to cover those additional claims because the other minor modifications alleged by ATM are substantially different to the slight modification alleged in the application (and described in the inquiry notice). As stated in ADN 2025/134, the commission examined the evidence provided by ATM and Orrcon but confirmed that this inquiry would focus only on the slight modification by drilling of holes as alleged in the application and identified in the inquiry notice.<sup>22</sup> The commission received no further submissions on the scope of the inquiry.

The commission also received a submission on 6 December 2025 from an interested party who had not previously been contacted. As the party did not provide a public (non-confidential) version, the submission did not meet the requirements for placement on the EPR. On 9 December 2025, the commission wrote to the party explaining the requirement to provide both a confidential and a non-confidential version of any submission and included information and links to the ADC website outlining these requirements.

On 19 December 2025, the party provided revised confidential and non-confidential submissions. However, the public version still did not meet the necessary requirements, as it was extensively redacted, did not identify the submitting company, and did not provide reasons for the confidentiality claims. The commission wrote to the party on 21 January 2026 seeking a revised public version for inclusion in the public record. The commission indicated that it disagreed with the claim for confidentiality over certain redacted information and that the public version did not allow a reasonable understanding of the substance of the information.

The commission sent a follow-up email on 5 February 2026 asking when the party intended to provide a revised public version of the submission. The party replied the same day, indicating it expected to provide updated submissions within the week.

On 18 February 2026, the commission followed up again, requesting that the party provide a revised public version and a reasoned confidentiality claim by close of business

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<sup>22</sup> ADN 2025/084.

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on 19 February 2026, and advising that if this was not received, the Commissioner would not have regard to the submission in preparing the SEF.

No further correspondence has been received from the interested party since that date. Under section 269ZJ(6), the Commissioner has disregarded the information in the submission in preparing this SEF as the commission cannot confirm that the information is correct.

## 4 CONSIDERATION OF INFORMATION

### 4.1 Introduction

As this inquiry concerns the slight modification of goods, the circumstances of sections 48(2) and 48(3) of the Regulation are relevant to whether circumvention activity has occurred.

In determining whether sections 48(2) and 48(3) of the Regulation have been satisfied (and whether circumvention activity has occurred), the Commissioner has had regard to the following information, as discussed in chapters 2 and 3:

- the application
- the ABF import database
- questionnaire responses from an importer
- submissions received from interested parties.

### 4.2 Assessment of circumstance in Section 48(2) of the Regulation

Chapter 2 sets out the provisions of section 48(2) of the Regulation. This chapter examines whether all of the following apply:

- a) goods (the *circumvention goods*) are exported to Australia from a foreign country in respect of which the notice applies (Section 4.2.1)
- b) before that export, the circumvention goods are slightly modified (Section 4.2.2)
- c) the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified (Section 4.2.3)
- d) had the circumvention goods not been so slightly modified, they would have been the subject of the notice (Section 4.2.4)
- e) section 8 of the Dumping Duty Act does not apply to the export of the circumvention goods to Australia. (Section 4.2.5)

#### 4.2.1 Are circumvention goods exported to Australia from a country covered by the notice?

The commission has assessed whether the goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies (section 48(2)(a)).

In its application, Orrcon submitted import documentation showing recent shipments of “torque tube” HSS used in solar projects, which it understands are of Chinese origin. Orrcon stated that these goods appear to be slightly modified HSS—specifically through the drilling of holes—prior to export from China, and that this modification is undertaken for the purpose of avoiding the existing measures.

Similarly, ATM provided submissions claiming that some Chinese exporters drill small, non-functional holes into HSS to shift the goods from tariff heading 7306 (HSS, subject to measures) to 7308 (fabricated steel, not subject to measures). ATM claims that these

holes do not alter the function of the product, and supplied photographs and market intelligence indicating that the holes are added solely to avoid duties.

To assess whether exporters have been exporting circumvention goods into the Australian market, the commission analysed import data reported in the ABF import database. The commission examined imports from financial year (FY) 2013 and focused on exports declared as originating from China, Korea, Malaysia and Taiwan, being the countries subject to the measures. The commission found alleged circumvention goods have been declared under tariff subheading 7308.90 in Schedule 3 of the Tariff Act.

Copies of import documents provided by Orrcon in its application<sup>23</sup> and by the importer who responded to the RIQ, confirmed that circumvention goods were entered under tariff classification 7308.90.00, statistical code 65.

Figure 1 shows that imports of the alleged circumvention goods from China first appear in FY2018, with no recorded imports in the ABF data between FY2013 and FY2017.

The volumes shown reflect only those imports explicitly described as “torque tube”, which the commission considered the most readily identifiable form of the alleged circumvention goods. Because this identification relies solely on how importers described the goods, the data captures only a narrow subset of potentially modified HSS and therefore shows relatively small volumes that may not include other HSS with drilled holes imported under different descriptions. Despite this limitation, the emergence of these goods in FY2018 and their continued presence in subsequent years is consistent with the concerns raised by Orrcon and ATM regarding the importation of modified HSS from China.

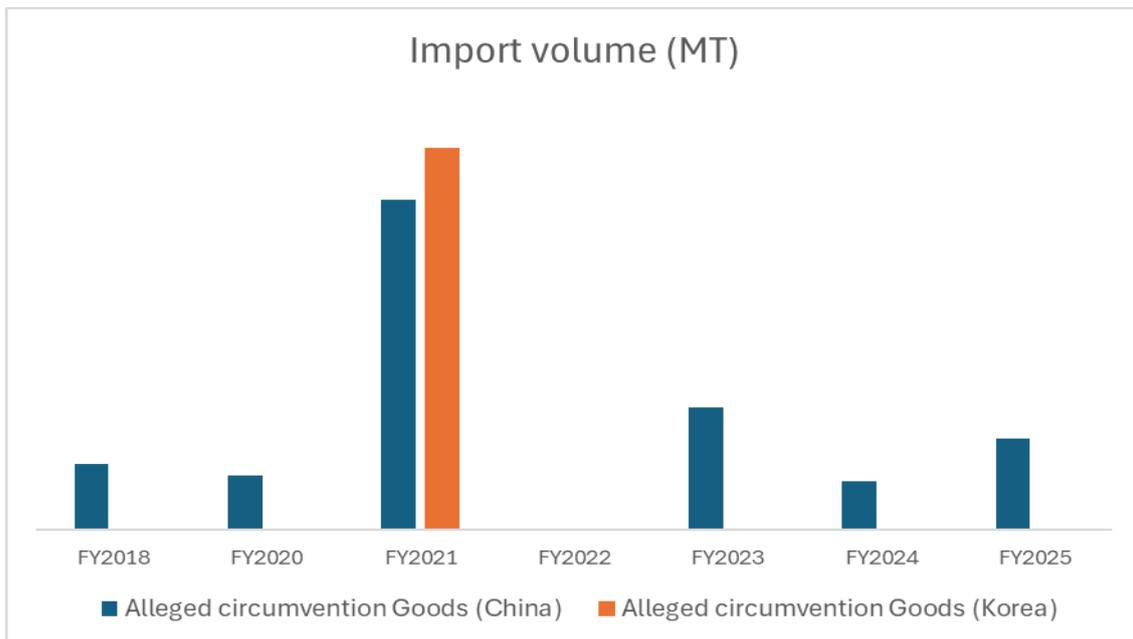


Figure 1: Imports of the alleged circumvention goods<sup>24</sup>

The commission considers there is sufficient evidence to indicate that circumvention goods, i.e. HSS with drill holes, have been exported to Australia from China and Korea.

<sup>23</sup> Confidential Attachment 3 to the application.

<sup>24</sup> Confidential Appendix 1 – ABF import data analysis

#### **4.2.2 Before that export, are the circumvention goods slightly modified?**

The commission has assessed whether the circumvention goods are slightly modified before export. To determine whether a circumvention good is slightly modified, the Commissioner must compare the circumvention goods and the good the subject of the notice, having regard to any factor that the Commissioner considers relevant, including any of the factors listed in section 48(3) (set out in Section 2.5).

In the application, Orrcon provided information relevant to the factors listed in section 48(3) of the Regulation. Orrcon's claims include that:

- the only physical difference between the goods and the circumvention goods is the presence of drill holes (either along the length or at the ends) and the circumvention goods are otherwise identical to the goods
- the production process for the goods and the circumvention goods is the same, with the only additional step being drilling
- any difference in production cost is limited to the drilling operation; the cost of which is immaterial relative to the full cost to make torque-tube HSS
- the goods and circumvention goods are used for the same end use (supporting structural steel framework for solar panels), move through the same channels, and are marketed to the same original equipment manufacturer (OEM) customers, and
- the patterns of trade, pricing after IDD and export volumes indicate substitution toward the drilled product following the imposition of measures, with the circumvention goods classified differently to the goods subject to the notices.

In evaluating whether the circumvention goods are slightly modified before export, the commission compared the circumvention goods and the goods the subject of the original notice, having regard to the factors listed in section 48(3) of the Regulation. The factors outlined in section 48(3) are not an exhaustive list of factors that may be considered, and the Commissioner can have regard to any factor the Commissioner considers relevant.

While the commission based its assessment on consideration of all factors listed in section 48(3), the commission considers the Commissioner does not have to be satisfied that all those factors indicate that the circumvention goods are slightly modified.

The commission's assessment is set out below.

##### **4.2.2.1 *Each good's general physical characteristics*** **(Section 48(3)(a) of the Regulation)**

Orrcon's application describes the circumvention goods as pre-galvanised swaged HSS with holes drilled either along the length or at the ends. Orrcon explained that torque tube is produced in Australia by drilling holes into otherwise identical HSS for use in large scale solar applications, meaning the drilled torque tube remains fundamentally HSS.

Nextpower stated that torque tubes are typically between 8.9 and 11.9 metres in length and are connected onsite to form arrays up to 200 metres. Nextpower claimed that holes are drilled in its torque tubes at specific distances to match module widths, and that the drilling patterns vary by project and module supplier. Nextpower provided a list of over 700 torque tube types, each designed with drilled holes to match a unique module width.

During the commission's visit to Orrcon's facility, the commission observed finished torque tube made from circular HSS that would otherwise meet the goods description except for the addition of drilled holes. The product's dimensions, material and overall

form were consistent with HSS; the only distinguishing feature was the presence of holes, typically placed near the ends. A photograph of torque tube provided by the applicant is at **non-confidential appendix A**.

In the confidential annexure to ATM's 2 December 2025 submission, ATM included photographs of alleged circumvention goods including torque tube. The physical characteristics of the torque tube depicted are near identical to the torque tube observed by the commission at Orrcon.

Based on the above information, the commission considers that the general physical characteristics of the goods and the alleged circumvention goods remain the same, apart from the addition of drilled holes in the circumvention goods.

#### **4.2.2.2 Each good's end use (Section 48(3)(b) of the Regulation)**

In solar tracking and mounting systems, the torque tube serves as the structural support to which drive components, brackets and hardware are fastened. To enable that fastening, pre-drilled holes are required in specified locations.

The circumvention goods include the pre-drilled holes and can be shipped directly from the port of importation to a site for use in the construction of a commercial solar facility. The goods (HSS) can be used for torque tube by first drilling the holes before delivering to the construction site.

The commission considers that the goods and circumvention goods can have the same end use.

#### **4.2.2.3 The interchangeability of each good (Section 48(3)(c) of the Regulation)**

In its application, Orrcon outlined the solar OEM context in Australia, compared torque tube and standard HSS, and set out Australia's domestic capability to convert undrilled HSS into torque tube.<sup>25</sup> It explained that torque tube used in solar mounting systems is functionally HSS prepared for assembly (i.e., with holes to accept fasteners, and swaging where required), and that Australian suppliers can either (i) supply standard HSS for subsequent processing, or (ii) supply pre-processed HSS (drilled/swaged torque tube) to the same end users.

The commission considers that the goods require the holes to be drilled, to be fully interchangeable with the circumvention goods.

#### **4.2.2.4 Differences in the processes used to produce each good (Section 48(3)(d) of the Regulation)**

During the commission's visit to Orrcon's facilities, the commission observed manufacturing of the goods (HSS) from slit steel coil using a continuous tube-forming line that shapes, welds, sizes and straightens the tube before it is cut to length. These standard processes—coil preparation, forming, high-frequency welding, sizing, straightening and cutting—are identical for both the goods and the circumvention goods.

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<sup>25</sup> Confidential Attachment 1 to the application.

The commission also inspected the machinery for processing standard circular HSS into torque tube. The in-line processing combines swaging one end and then drilling holes into the HSS using multiple drill stands.

The commission is satisfied that both goods undergo the same manufacturing process until the final modification step. The only additional processing step for the circumvention goods is the drilling of holes before export.

**4.2.2.5 Differences in the cost to produce each good  
(Section 48(3)(e) of the Regulation)**

In its application, Orrcon stated that since the goods and the circumvention goods are identical except for the presence of drill holes, the only difference in cost relates to the further drilling process. The additional cost is for labour and overheads, as there are no additional materials required other than the HSS itself. This accords with the commission's observations at Orrcon's manufacturing facilities.

**4.2.2.6 The cost of modification (Section 48(3)(f) of the Regulation)**

In its application, Orrcon estimated the cost of the modification based on labour costs, throughput and overheads related to its own swaging and drilling processing line.<sup>2625</sup> Orrcon estimated the cost of modification on a per tonne basis to be less than 5% of the total manufacturing cost of HSS torque tube. Orrcon also submitted that, given generally lower labour and manufacturing costs in China, the drilling cost when performed before export is likely lower than Orrcon's estimate.

The commission notes that the cost estimate submitted by Orrcon includes the cost of swaging one end of the torque tube. Swaged HSS is included in the goods description, therefore the cost of handling the HSS and overheads for the swaging machine is included in the cost of the goods. The cost of the modification is only the additional cost of running the HSS through the drill stands to produce the holes.

Based on the commission's observations at Orrcon's manufacturing facilities and general understanding of HSS production costs, the commission considers Orrcon's estimate to be reasonable and likely overstated, as it includes the cost of swaging, which is a cost to produce the goods covered by the measures.

**4.2.2.7 Customer preferences and expectations relating to each good  
(Section 48(3)(g) of the Regulation)**

In its application, Orrcon claimed that since the final end use customer of the goods and the circumvention goods is the same (namely, solar-sector OEMs), they have identical preferences and expectations relating to each of the goods—that is, torque tube HSS for application within solar panel installations.

The commission considers that a customer purchasing torque tube (for application within solar panel installations) would expect holes to be drilled in the tube when delivered to site, as it is a requirement, however a customer would be unlikely to have a preference for whether the holes were drilled prior to export or in Australia.

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<sup>26</sup> Confidential Attachment 5 to the application.

**4.2.2.8 The way in which each good is marketed  
(Section 48(3)(h) of the Regulation)**

In its application, Orrcon stated that the goods and circumvention goods are manufactured in compliance with Australian standard for cold-formed structural steel hollow sections AS/NZS 1163:2009,<sup>27</sup> and included excerpts of marketing and technical literature for torque tube used in solar applications.<sup>28</sup>

Orrcon also referenced a 2024 joint announcement of its partnership with 2 companies, one of which is Nextpower,<sup>29</sup> to produce torque tube for commercial solar farms, as evidence that Australian like goods are used in the same end use application as the circumvention goods.<sup>30</sup> Nextpower claimed that it continues to collaborate with Orrcon to support the establishment of local torque tube production capacity.

The commission considers that, in relation to torque tube, the marketing would be the same regardless of whether the holes were drilled prior to export or in Australia. However, it is unlikely that the goods without the holes drilled would be marketed as torque tube.

**4.2.2.9 Channels of trade and distribution for each good  
(Section 48(3)(i) of the Regulation)**

The circumvention goods include the pre-drilled holes and can be shipped directly from the port of importation to the installation site of the commercial solar application.

For domestic supply, Orrcon sells HSS to steel processors, who then undertake drilling and/or swaging before supplying solar-sector OEMs; it also indicates that Chinese exporters can supply either undrilled HSS (with drilling performed in Australia) or pre-drilled torque tube directly to the same OEMs, with the only difference being where the drilling occurs.

Nextpower identified its customers as site owners, construction companies, and engineering, procurement and construction (EPC) firms, noting that EPCs are the most common. Nextpower's imported torque tube is delivered direct to the customer. Nextpower does not maintain torque tube inventory in Australia due to the wide variety of models of torque tube available.

The commission considers that while the circumvention goods can be shipped directly to the ultimate customer, the goods would have to be shipped to a steel processor to undertake the drilling, prior to delivery to the customer.

**4.2.2.10 Patterns of trade for each good (Section 48(3)(j) of the Regulation)**

Exports of the goods have continued since the measures were imposed in 2012, and have maintained a significant share of the Australian market for HSS, as the commission found in the last continuation inquiry in relation to the measures.<sup>31</sup>

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<sup>27</sup> <https://www.standards.org.au/standards-catalogue/standard-details?designation=as-nzs-1163-2009>

<sup>28</sup> Confidential Attachment 1 to the application.

<sup>29</sup> Nextpower was formerly known as Nextracker and rebranded to Nextpower in 2025.

<sup>30</sup> <https://orrcon.com.au/article/nextracker>

<sup>31</sup> Anti-Dumping Commission Report No 590, Figure 1 at 5.2, p 38.

In this inquiry, the commission has identified imports of the alleged circumvention goods from FY2018, as shown in Figure 1 at chapter 4.2.1. The volume of circumvention goods identified by the commission is extremely small in comparison to the volume of exports of the goods, as explained further in chapter 4.2.2.12.

The commission has not identified significant displacement of trade in the goods by the circumvention goods. However, the commission notes the limitations in identifying imports of the circumvention goods, including the lack of cooperation and information from importers and exporters.

#### **4.2.2.11 Changes in the pricing of each good (Section 48(3)(k) of the Regulation)**

In its application, Orrcon submitted that the circumvention goods do not attract IDD due to the change to tariff subheading 7308, which provides a price advantage over Australian like goods. The applicant included confidential pricing information that shows the price for a consignment of circumvention goods imported in 2024.<sup>32</sup> Orrcon submitted that its estimated selling price for the circumvention goods is highly correlated with the price for HSS subject goods from China.<sup>33</sup>

The commission examined pricing information for torque tube provided by the importer that submitted an RIQ, and compared it to information from the ABF import database. This analysis is included in **Confidential Appendix 1**.

Based on the evidence available, the commission considers the pricing of the circumvention goods and the goods to be similar.

#### **4.2.2.12 Changes in the export volumes for each good (Section 48(3)(l) of the Regulation)**

In its application, Orrcon claimed that importers are substituting the goods covered by the measures with the circumvention goods.

The commission has identified imports of the alleged circumvention goods from FY2018, as shown in Figure 1 at chapter 4.2.1. The commission was only able to reliably identify imports declared as “torque tube” and there could be other imports of circumvention goods, including torque tube that has not been explicitly described as such, that the commission has not been able to identify. The commission also notes that the lack of cooperation and information from importers and exporters has limited its ability to identify and estimate the volume of exports of the circumvention goods.

The volume of circumvention goods identified by the commission is extremely small in comparison to the volume of exports of the goods. The commission estimates that FY2021, being the year in which the most significant volume of circumvention goods was identified, the volume of circumvention goods was around 3% of the volume of the goods imported from all countries subject to the measures. This estimate is included in **Confidential Appendix 1**.

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<sup>32</sup> Confidential Attachment 4 to the application.

<sup>33</sup> Confidential chart 2 in the application, p 3.

**4.2.2.13 Tariff classifications and statistical codes for each good  
(Section 48(3)(m) of the Regulation)**

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 a different tariff heading than the one referenced in the original notice. The goods are currently imported under tariff heading 7306,<sup>34</sup> while the circumvention goods are imported under tariff heading 7308.<sup>35</sup>

**4.2.2.14 Summary of findings – are the circumvention goods slightly modified?**

The commission notes that, the Commissioner may have regard to any of the factors listed in section 48(3) to determine whether a circumvention good is slightly modified.

Having compared the circumvention goods and the goods the subject of the notice, the Commissioner preliminarily finds that the:

- general physical characteristics for each good are the same, with the only difference being the presence of drill holes
- circumvention goods and the goods can have the same end use
- goods requiring holes to be drilled, are fully interchangeable with the circumvention goods
- manufacturing process for both goods is the same until the final modification step, being the drilling of holes
- differences in cost are labour and overheads relating to the further drilling process for the circumvention goods
- cost of modification is less than 5% of the total manufacturing cost of the goods
- customer purchasing circumvention goods would expect holes to be drilled in the HSS, however would be unlikely to have a preference for whether the holes were drilled prior to export or in Australia
- goods are unlikely to be marketed in the same way as the circumvention goods are marketed without the drill holes incorporated
- circumvention goods can be shipped directly to the customer, the goods would have to be shipped to a steel processor to undertake the drilling, prior to delivery
- circumvention goods do not appear to have displaced trade in the goods to a significant degree
- circumvention goods and the goods are similarly priced

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<sup>34</sup> Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel.

<sup>35</sup> 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

- volume of circumvention goods appears to be small in comparison to the volume of exports of the goods, and
- circumvention goods and the goods are classified to a different tariff subheading and statistical code.

The Commissioner considers that while the circumvention goods and the goods have the same general physical characteristics, the circumvention goods are slightly modified with the difference being the presence of drill holes (either along the length or at the ends).

Therefore, the Commissioner preliminarily finds that the circumvention goods are slightly modified, with that modification taking place before export.

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

The commission has assessed whether the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified (section 48(2)(c)).

While the addition of drilled holes means the product is commonly referred to in the solar industry as “torque tube”, the underlying steel section remains the goods subject to measures (HSS). Drilling does not create a new or different product — it simply prepares the same HSS for its intended application within a solar mounting system.

Both the undrilled HSS and the drilled torque-tube product serve the same structural function as part of a steel support assembly. The drilled holes facilitate installation, but they do not alter the essential purpose of the tube as a structural component.

Accordingly, the Commissioner considers that the use or purpose of the circumvention goods remains the same before and after the slight modification.

#### **4.2.4 Had the circumvention goods not been so slightly modified, would they have been the subject of the original notice?**

The commission has assessed whether the circumvention goods would have been the subject of the original notice had they not been so slightly modified (section 48(2)(d)).

As per the description of the goods outlined in chapter 2, the goods are HSS. The circumvention goods, being HSS with drill holes (either along the length or at the ends) fall outside this description.

The Commissioner considers that, had the circumvention goods not been so slightly modified, they would have been subject to the original notice.

#### **4.2.5 Do sections 8 or 10 of the Dumping Duty Act apply to the circumvention goods?**

The commission has assessed whether section 8 and 10 of the Dumping Duty Act applies to the export of the circumvention goods to Australia (section 48(2)(e)).

The Commissioner finds that the circumvention goods are not subject to the original dumping duty and countervailing duty notices, by virtue of the circumvention goods falling outside of the goods description. Sections 8 and 10 of the Dumping Duty Act do not apply to the export of the circumvention goods to Australia.

### **4.3 Conclusion**

Based on the information available, the Commissioner has preliminarily found that:

- the circumvention goods are exported from China and Korea, countries subject to the original notice.
- the goods are slightly modified before export
- the slight modification does not change the use or purpose of the goods
- without the slight modification, the circumvention goods would have been subject to the original notice
- sections 8 and 10 of the Dumping Duty Act do not apply because the circumvention goods fall outside the original notice solely due to the slight modification.

Accordingly, the Commissioner is preliminarily satisfied that a circumvention activity, in relation to the original notice, occurred in the circumstance prescribed in section 48(2) of the Regulation.

## 5 PROPOSED RECOMMENDATION FOR ALTERATION OF THE NOTICE

### 5.1 Legislative provisions

Section 269ZDBG(1) specifies that the Commissioner must, after conducting an anti-circumvention inquiry in relation to the original notice, give the Minister a report recommending:

- (a) the original notice remain unaltered,<sup>36</sup> or
- (b) the following:
  - (i) the original notice be altered because the Commissioner is satisfied that circumvention activities in relation to the original notice have occurred<sup>37</sup>
  - (ii) the alterations to be made to the notice.<sup>38</sup>

Section 269ZDBH(1) specifies that, after considering the report of the Commissioner and any other information that the Minister considers relevant, the Minister must declare, by notice published in accordance with section 269ZDBH(9), that for the purposes of the Act and the Dumping Duty Act:

- (a) the original notice is to remain unaltered,<sup>39</sup> or
- (b) the alterations specified in the declaration are taken to have been made to the original notice, with effect on and after a day specified in the declaration.<sup>40</sup>

Without limiting section 269ZDBH(1), section 269ZDBH(2) specifies that the alterations may be of the following kind:

- the specification of different goods that are to be the subject of the original notice<sup>41</sup>
- the specification of different foreign countries that are to be the subject of the original notice<sup>42</sup>
- the specification of different exporters that are to be the subject of the original notice<sup>43</sup>
- in relation to existing exporters that are the subject of the original notice—the specification of different variable factors in respect of one or more of those exporters<sup>44</sup>

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<sup>36</sup> Section 269ZDBG(1)(c).

<sup>37</sup> Section 269ZDBG(1)(d)(i).

<sup>38</sup> Section 269ZDBG(1)(d)(ii).

<sup>39</sup> Section 269ZDBH(1)(a).

<sup>40</sup> Section 269ZDBG(1)(b).

<sup>41</sup> Section 269ZDBH(2)(a).

<sup>42</sup> Section 269ZDBH(2)(b).

<sup>43</sup> Section 269ZDBH(2)(c).

<sup>44</sup> Section 269ZDBH(2)(d).

- in relation to exporters that are to be the subject of the original notice—the specification of variable factors in respect of those exporters.<sup>45</sup>

## 5.2 Proposed alterations to the original notice in the application

In its application, Orrcon proposed that the Minister should alter the original notice to add reference to drilled holes, as follows:

*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, **and any HSS that has been drilled at the end or along the length of the section.***

## 5.3 Submissions on proposed alterations

The Commissioner received several submissions on alterations to the original notice. This SEF provides a summary of these submissions below, with the Commissioner's consideration of those submissions discussed in chapter 5.5.

### 5.3.1 ATM submissions on minor modifications to HSS

In its submission of 2 December 2025, ATM submitted that certain Chinese steel exporters are deliberately circumventing Australia's anti-dumping measures on HSS by making minor modifications to the products to reclassify them under different HS codes, such as from 7306 (HSS) to 7308 (fabricated goods), which are not subject to dumping duties.

ATM identified three main types of superficial modifications:

- Attachment of brackets – tack welded or bolted brackets that do not transform the product into a genuinely fabricated item.
- Drilling of holes – holes drilled into sections without changing the product's essential nature.
- Minor fabrication – cosmetic changes such as tack welds, mitre cuts, and socketing that do not alter the product's intended end-use.

ATM provided photographic evidence and market intelligence, previously shared with the ABF, demonstrating that these practices are deliberate and aimed solely at avoiding anti-dumping measures. ATM requested the commission implement measures ensuring that products which remain, in substance, HSS are subject to appropriate duties regardless of superficial modifications.

In its submission of 16 December 2025, ATM submitted that its ongoing investigation has identified importers bringing in HSS with slight modifications intended to circumvent anti-dumping measures.

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<sup>45</sup> Section 269ZDBH(2)(e).

These modifications do not alter the essential characteristics or intended end-use of the product but are designed to reclassify goods under alternative tariff codes. Examples include:

- Drilling holes of varying sizes and positions (e.g., 2 × 15mm holes near ends, multiple holes along length).
- Attaching couplings to tubes or pipes (including for scaffolding).

ATM argued these practices represent deliberate circumvention of Australia's anti-dumping framework and urged the commission to examine changes in trade patterns using Australian Border Force import data.

### **5.3.2 Orrcon submission in reply to ATM's submissions**

In its submission of 19 December 2025, Orrcon submitted that evidence provided by ATM regarding the drilling or punching of holes into HSS corroborates Orrcon's application and demonstrates circumvention practices through slight modification.

Orrcon noted that these modifications leave the product essentially unchanged and do not transform it into a fabricated item. Orrcon requested that the commission treat this matter as a priority and make a finding that the inclusion of holes in hollow steel sections constitutes circumvention by way of slight modification.

### **5.3.3 Commission's assessment**

The submissions broadly support altering the notices to include HSS with drill holes.

The commission's inquiry has not examined alleged circumvention activity from the other types of minor modifications raised in ATM's submissions. As stated in chapter 3.3.5, the commission has focused this inquiry on circumvention goods slightly modified by the drilling of holes as alleged in the application and identified in the inquiry notice.<sup>46</sup> The commission has not examined other goods in this inquiry, therefore it does not propose to alter the notice in relation to other modifications such as attachments and minor fabrication.

## **5.4 Commissioner's proposed recommendation**

### **5.4.1 Recommended alteration**

Based on the preliminary findings outlined in this SEF, namely that a circumvention activity has occurred, the Commissioner proposes to recommend that the Minister alter the original notice under section 269ZDBH(1) to specify different goods (to include the circumvention goods) that are to be the subject of the original notice.

Specifically, the Commissioner proposes to recommend that the description of the goods exported to Australia from People's Republic of China, the Republic of Korea, Malaysia and Taiwan, which are the subject of the original notice made under sections 269TG(2) and 269TJ(2), be altered to read as follows:

*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*

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<sup>46</sup> ADN 2025/084.

*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, **and any HSS that has been drilled at the end or along the length of the section.***

#### **5.4.2 Basis for recommended alteration**

The Commissioner considers that, once satisfied that a circumvention activity has occurred, the Minister should take the action required to address the circumvention activity.

The Commissioner preliminarily considers that the Minister make the recommended alteration to the original notice, to amend the description of the goods from:

*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.*

to:

*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, **and any HSS that has been drilled at the end or along the length of the section.***

In recommending this alteration, the Commissioner considered the following:

- the alteration addresses the circumvention activity as it will cover the circumvention goods identified during this inquiry and any other goods with a similar slightly modified by the addition of drilled holes, and
- the alteration does not include other products other than that necessary to address the circumvention activity found, such as the those alleged by ATM in its submissions.

## 6 RECOMMENDED DATE OF EFFECT

### 6.1 Legislative provisions

Section 269ZDBH(1)(b) requires that, when making a declaration that an original notice is to be altered, the Minister's declaration must specify the date from which those changes take effect.

Section 269ZDBH(8) provides that, when specifying a date in a declaration under section 269ZDBH(1)(b), the Minister is not able to specify a date earlier than the date of publication of the inquiry notice.

### 6.2 Proposed date of effect of changes to original notice

The Commissioner proposes to recommend that the alteration, in terms of the specification of different goods (to include the circumvention goods) that are to be the subject of the original notice, have effect on and after the date of publication of the inquiry notice under section 269ZDBE(4) which was 4 September 2025.<sup>47</sup>

The proposed date of effect of the alteration to the original notice recognises that the commission has identified that circumvention activity has been occurring prior to this inquiry. Applying the recommended alteration retrospectively ensures that IDD is collected in relation to the circumvention goods which would have been the subject of the original notice had it not been the case that these goods were slightly modified.

As a result of this proposed recommendation, importers of the circumvention goods would be subject to IDD in respect of the circumvention goods entered for home consumption on and after 4 September 2025.

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<sup>47</sup> ADN 2025/084.

**7 APPENDICES AND ATTACHMENTS**

<b>Non-confidential Appendix A</b>	Photograph of manufactured torque tube
<b>Confidential Appendix 1</b>	ABF import data analysis HSS 2012-2025

**NON-CONFIDENTIAL APPENDIX A**

Photograph of torque tube manufactured by Orrcon.



Source: Supplied by Orrcon.