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Response to Revocation Application

Case number: 567

Product: Hollow Structural Sections

From: The Republic of Korea (HiSteel Co Ltd only)

Review period: 1 October 2019 to 30 September 2020 (the period)

Response due by: 7 November 2020

Email enquiries to: investigations1@adcommission.gov.au

Anti-Dumping Commission website: www.adcommission.gov.au

DECLARATION

I believe that the information contained in this response is complete and correct.

Signature:

Name: [REDACTED]

Position: Manager – Trade Affairs

Company: Orrcon Manufacturing Pty Ltd

ABN: 15 113 998 066

Date: 6 November 2020

A-1 Identity and communication.

Please nominate a person in your company for contact about the response:

Contact Name:	██████████
Company and position:	Manager – Trade Affairs
Address:	██████████
Telephone:	██████████
Facsimile:	██████████
E-mail address:	██████████
ABN:	15 113 998 066

Alternative contact

Name:	██████████
Position in company:	██████████
Address:	██████████
Telephone:	██████████
Facsimile:	██████████
E-mail address:	██████████

If you have appointed a representative to assist with your response, provide the following details and complete Appendix A8 (Representation).

Name:	██
Business name:	██
Address:	██
Telephone:	██
Facsimile:	██
E-mail address:	██
ABN:	██

A-2 Company information.

- State the legal name of your business and its type (e.g. company, partnership, sole trader, joint venture). Please provide details of any other business names you use to manufacture/produce/sell the goods that are the subject of the investigation.

This questionnaire response is made by Orrcon Manufacturing Pty Ltd (“Orrcon”), an Australian manufacturer of hollow structural sections (ABN No. 15 113 998 066). Orrcon is a local manufacturer and supplier of structural pipe & tube to the building and construction industry.

Specific to this application, Orrcon manufactures a range of structural pipe & tube products at its Salisbury, Brisbane, facility. These products are then distributed nationally via Orrcon’s distribution networks.

Orrcon is part of BlueScope Steel, a leading steel producer in Australia, New Zealand, the Pacific Islands, North America, and Asia.

- 2. Provide your company’s internal organisation chart. Describe the functions performed by each group within the organisation.

Orrcon has included a copy of its internal organisation chart at Confidential Attachment A-2.2. Orrcon specialises in the manufacturer of structural pipe & tube, which complies with the Building Code of Australia, and other relevant Australian Standards.

- 3. List the major shareholders of your company. Provide the shareholding percentages for joint owners and/or major shareholders.

Orrcon is ultimately owned by BlueScope Steel Limited. Please refer Non-Confidential Attachment A-2.3 for a copy of Orrcon’s current ASIC company extract.

- 4. If your company is a subsidiary of another company list the major shareholders of that company.

BlueScope Steel Limited is the 100 percent owner of Orrcon Manufacturing Pty Ltd.

- 5. If your parent company is a subsidiary of another company, list the major shareholders of that company.

Not applicable.

- 6. Provide an outline diagram showing major associated or affiliated companies and your company’s place within that structure (include the ABNs of each company).

Please refer to Confidential Attachment A-2.6 which identifies each of the companies that is owned by BlueScope Steel Limited (including Orrcon).

7. Are any management fees/corporate allocations charged to your company by your parent or related company?

Not applicable.

8. Identify and provide details of any relationship you have with an exporter to Australia or Australian importer of the goods.

Orrcon does not have a relationship with any exporter to Australia of the goods the subject of this application. Orrcon may [commercial-in-confidence].

9. Provide a copy of all annual reports applicable to the data supplied in appendix A3 (Sales Turnover). Any relevant brochures or pamphlets on your business activities should also be supplied.

BlueScope's fiscal year 2020 Annual Report and Full Financials are available at <https://www.bluescopesteel.com/investors>.

10. Provide details of any relevant industry association.

Through its parent company BlueScope Steel Limited, Orrcon is a member of the Australian Industry Group ("AiGroup"), the Australian Steel Institute ("ASI"), and the Bureau of Steel Manufacturers Australia ("BOSMA").

A-3 The imported and locally produced goods.

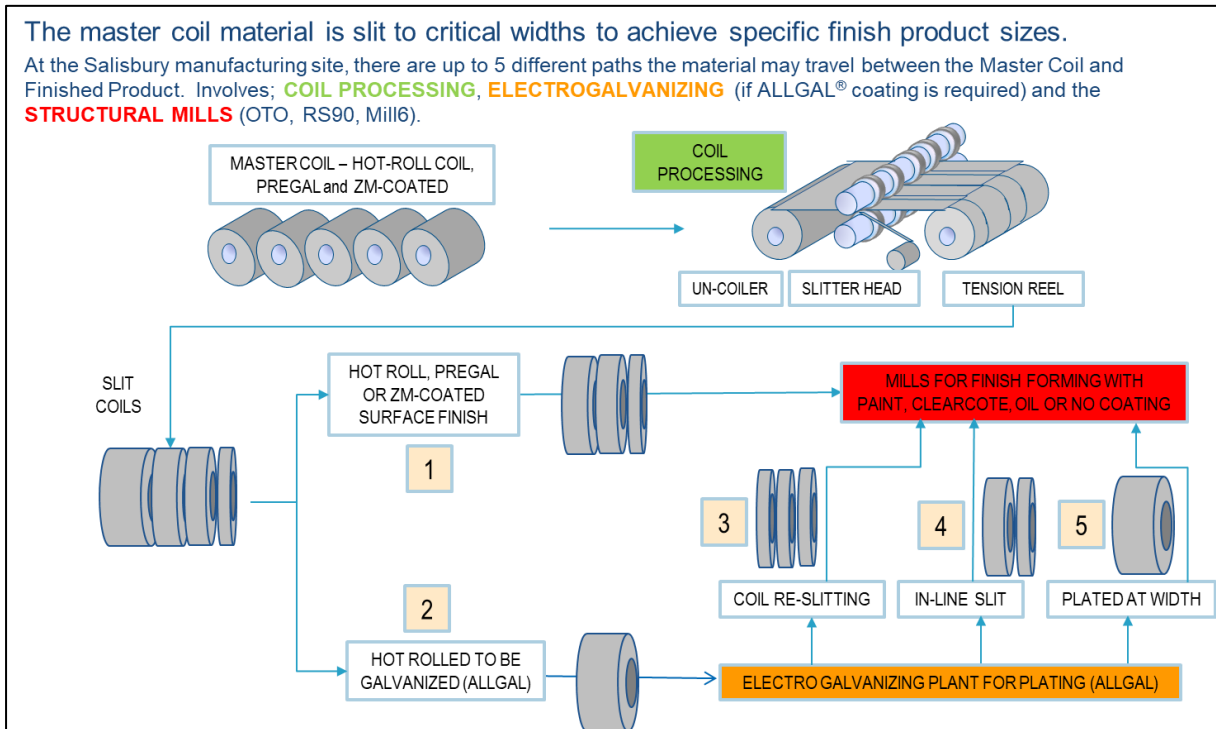
1. Fully describe your product(s) that are 'like' to the imported product:
- Include physical, technical or other properties.
 - List this information for each make and model in the range.
 - Supply technical documentation where appropriate.
 - Indicate which of your product types or models are comparable to each of the imported product types or models.

The goods the subject of HiSteel Co. Ltd's ("HiSteel") revocation application can be generally described as:

Certain electric resistance welded pipe and tube made of steel, comprising circular and noncircular hollow sections in galvanised and non-galvanised finishes, whether or not including alloys. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include pre-galvanised, hot-dipped galvanised (HDG), and non-galvanised HSS.

Orrcon's manufacture goods that are "like" to the imported HSS but not necessarily identical. Orrcon has the ability to manufacture alloy and non-alloy HSS. Orrcon manufactures HSS in painted and black finishes and pre-galvanised HSS (including Maxi-Tube) and electro-galvanised finishes. Orrcon manufactures its range of HSS at its manufacturing site at Salisbury, Queensland. Copies of ATM product guides and brochures are included at Non-Confidential Attachment A-3.1.

2. Provide a summary and a diagram of your production process.



3. If your product is manufactured from both Australian and imported inputs:

- describe the use of the imported inputs; and
- identify that at least one substantial process of manufacture occurs in Australia (for example by reference to the value added, complexity of process, or investment in capital).

Orrcon purchases its raw material hot rolled coil from BlueScope Steel Limited.

A-4 The Australian market.

1. Describe the end uses of both your product and the imported goods.

The Australian market for HSS is supplied from local production and imports (including from Korea, China, Malaysia, Taiwan, and Thailand). The goods are generally sold to distributors and end-users. Locally produced non-alloy and imported non-alloy and alloyed HSS are used in a variety of applications across a range of sectors of the Australian economy including (but not exclusive to):

- engineering construction;
- manufacturing;
- mining, oil and gas;
- residential and non-residential construction;
- temporary fencing;
- transport;
- furniture and play equipment;
- rural applications; and
- automotive.

End-use applications for which HSS may be used include (but not limited to):

- scaffolding and fencing (fixed and temporary);
- trailer frames (boat and box);
- mining equipment;
- signposts;
- playground equipment and shade provision in parks and public spaces;
- architectural finishes in large open span structures (airports, shopping centres, etc);
- major structural engineering applications;
- gates – domestic, industrial, commercial and rural;
- vehicle chassis (bus, truck, etc);
- light manufactured goods;
- gantries that support railway electrification cables;
- domestic, rural, commercial and industrial structures;
- sporting stadiums;
- light fabrication and maintenance work;
- truss systems for roofing within variable structure types; and
- agricultural equipment such as spray systems, hay feeders, cattle crushers, cattle yards and ramps, etc.

2. Generally describe the Australian market for the Australian and imported product and the conditions of competition within the overall market. Your description could include information about:
- sources of product demand;
 - marketing and distribution arrangements;
 - typical customers/users/consumers of the product;
 - the presence of market segmentation, such as geographic or product segmentation;
 - causes of demand variability, such as seasonal fluctuations, factors contributing to overall market growth or decline, government regulation, and developments in technology affecting either demand or production;
 - the way in which the imported and Australian product compete; and
 - any other factors influencing the market.

Sources of product demand

Demand for HSS is from a range of sectors of the Australian economy (see Section A-4.1 above).

Marketing and distribution

The Australian HSS market comprises local manufacturers, overseas suppliers, importers, wholesalers, distributors, resellers, and end-users.

Typical customers/users/consumers/of pipe & tube

Typical end-users of HSS are reflected in the various end-use segments identified in Section A-4.1 above.

The presence of market segmentation, such as geographic or product segmentation

The goods under consideration are supplied to a range of market sectors as identified in Section A-4.1 above. In terms of geographic segmentation, Orrcon sells and distributes across Australia. Similarly, imported HSS is sold and distributed across Australia.

The Australian market for HSS is diverse (as indicated by the broad range of market sectors to which the goods are supplied). An increase in the number of market participants over recent years indicates that product availability and pricing in the HSS market is generally transparent, irrespective of market segment.

Causes of demand variability

Historic growth in the mining industry through the decade ending 2012/13 was a catalyst for increased demand of HSS in Australia. There was a significant contraction due to the global financial crisis in 2009, although in terms of HSS demand this was moderated to some extent through 2010 as a result of government fiscal stimulus, namely the Building Education Revolution (BER) program.

Growth in pool and temporary fencing as a result of regulatory changes also contributed to an increase in the overall size of the Australian market up until 2012/13. In the subsequent eight years there has been an apparent contraction in the Australian HSS market due primarily to a decline in the domestic manufacturing sector (closing of Automotive industry and associated suppliers), extensive periods of drought impacting the agricultural sector, and comparatively low levels of engineering and construction investment by government and businesses generally. Overall, demand for HSS is strongly linked to the economic performance of the Australian economy.

Alongside the identified historic reasons attributed to variability in the Australian market, there are factors which may be regarded as 'seasonal' which impact the market. These include:

- The construction cycle. There is widespread opinion in the industry that the months of December and January each year effectively aggregate to one normal month of sales given that the traditional construction industry holiday period falls at this time; and
- A take up of sales to the rural sector in May and June each year. This is believed to be driven by the desire of the farming community to resolve any outstanding "repairs and maintenance" issues prior to the end of the financial year.

The way in which the imported and Australian product compete

HSS is used in various end-use applications. Typical applications include bridges, OEM equipment manufacture, buildings (residential, commercial, industrial), public works, etc. Alternate applications may include handyman work, some repair work where the owner takes the risk of the structural integrity of the repair, fencing, etc.

In terms of competition between imported and domestic product, it is the responsibility of the manufacturer to assure the purchaser (i.e. distributor, reseller, end-user) that the product meets the standard that was specified at time of order. Domestic manufacturers therefore supply product to the relevant Australian standard and as required under the standard will also maintain quality assurance systems to ensure that the product can be traced to appropriately specified and compliant feedstock.

Some sources of imported HSS products cannot demonstrate the same level of traceability to appropriate standards of feedstock and counter this with lower sell prices to distributors and resellers. Distributors and resellers in turn use the purchase price of this imported HSS product to motivate the domestic producers to sell at a lower cost. Further, some of these imported products are sold into the end-use marketplace, with domestic manufacturers forced to either reduce selling price to maintain market volumes via other distribution channels or forego the volume as the target selling price marginalises the overall business attractiveness.

Any other factors influencing the market

Australian producers of HSS products have genuinely been acknowledged as highly innovative and highly competitive. This is evidenced by Orrcon's continued investment in improving the efficiency and safety of its manufacturing facilities. For example:

[Commercial-in-confidence investment details].

With these new investments, Orrcon seeks to better compete on cost, quality and capability to supply in a timely manner. Genuine competitive forces amongst the domestic manufacturers have prompted a continuous cycle of innovation and cost-competitiveness to maintain and where possible to grow market share.

The growth in imported market share has been predominately driven by price – a price that the Australian industry considers in the majority of instances to be below that of the price sold in the country of origin and/or below the cost of raw materials plus value-add margin in the country of origin.

In terms of economics, the manufacture of HSS is a comparatively simple process:

- All manufacturers (domestic and international) use appropriate feed input (hot rolled coil) which is effectively a world traded commodity (i.e. prices are set internationally);
- The feed input must be slit into appropriate widths to align with the target finished product;
- If the target finished product is pre-galvanised (“pre-gal”) then the feed coil is galvanised prior to manufacture into HSS. The “widths” of coil (referred to as “mults” – multiples of the wider master coil) are then cold-formed into the finished product and then painted or lightly oiled or left bare.

Based on this cost structure and sell price (as validated elsewhere in this submission) Orrcon contends that the imported product forces Australian industry to either:

- Compete directly at a price point for many HSS products in many markets that results in significant reduction of margins to (a) unacceptable ROI levels, or (b) sell prices at less than a fully-absorbed cost-to-make-and-sell. Either outcome will eventually and inevitably require cessation of supply to the target market if sound commercial principles are applied; or
- Choose not to pursue low margin HSS business and consequently forego volume. The resultant lower volume across Australian manufacturers' fixed cost base results in an increase in the unit costs of remaining production– thereby impacting the ongoing viability of the business.

3. Identify if there are any commercially significant market substitutes for the Australian and imported product.

HSS tends to compete with other general metallic and timber construction materials, however, any substitution appears to be marginal.

4. Complete appendix A1 (Australian production).

Orrcon has completed Confidential Appendix A1.

5. Complete appendix A2 (Australian market).

Orrcon has completed Confidential Appendix A2.

A-5 Company sales.

1. Complete appendix A3 (sales turnover).

Orrcon has completed Confidential Appendix A3.

2. Complete appendix A5 (sales of other production) if you have made any:
- internal transfers; or
 - domestic sales of like goods that you have not produced, for example if you have imported the product or on-sold purchases from another Australian manufacturer.

Orrcon has completed Confidential Appendix A5.

3. Complete appendix A4 (domestic sales).

Orrcon has completed Confidential Appendix 4.

4. If any of the customers listed at appendix A4 (domestic sales) are associated with your business, provide details of the association. Describe the price effect of the association.

Orrcon makes sales to certain BlueScope and BlueScope Lysaght related parties. These sales are readily identifiable in Confidential Appendix A4.

5. Attach a copy of distributor or agency agreements/contracts.

Not applicable.

6. Provide copies of any price lists.

Orrcon provides at Confidential Attachments 5 and 6 examples of current HSS price lists.

7. If any price reductions (for example commissions, discounts, rebates, allowances and credit notes) have been made on your Australian sales of like goods provide a description and explain the terms and conditions that must be met by the customer to qualify.
- Where the reduction is not identified on the sales invoice, explain how you calculated the amounts shown in appendix A4 (domestic sales).
 - If you have issued credit notes (directly or indirectly) provide details if the credited amount has **not** been reported appendix A4 (domestic sales) as a discount or rebate.

[Commercial-in-confidence pricing details]

Rebates (where paid) are initially accrued, then either remitted to the customer or are offset against the customer's future purchases.

Rebates and discounts are included in the sales listing per Confidential Appendix A4.

9. Select the two largest domestic sales (by value) in each quarter of the data supplied in appendix A4 (domestic sales). Provide a complete set of commercial documentation for these sales. Include, for example, purchase order, order acceptance, commercial invoice, discounts or rebates applicable, credit/debit notes, long or short term contract of sale, inland freight contract, and bank documentation showing proof of payment.

Orrcon has included two complete sets of commercial documentation for two customers in each of the four quarters to 30 September 2020. Please refer to Confidential Attachment A-5.9 for Orrcon's sample commercial documentation.

A-6 General accounting/administration information.

1. Specify your accounting period.

Orrcon's financial year is 1 July to 30 June.

2. Provide details of the address(es) where your financial records are held.

The financial records for Orrcon are maintained at 121 Evans Road, Salisbury, Queensland.

3. Please provide the following financial documents for the two most recently completed financial years plus any subsequent statements:
- chart of accounts;
 - audited consolidated and unconsolidated financial statements (including all footnotes and the auditor's opinion);
 - internal financial statements, income statements (profit and loss reports), or management accounts, that are prepared and maintained in the normal course of business for the goods.

These documents should relate to:

1. the division or section/s of your business responsible for the production and sale of the goods covered by the investigation, and
2. the company overall.

A copy of Orrcon's chart of accounts is included at Confidential Attachment A-6.3.1.

The Annual Report for BlueScope's 2019 year is available at <https://www.bluescopesteel.com/investors>.

4. If your accounts are **not** audited, provide the unaudited financial statements for the two most recently completed financial years, together with your taxation returns. Any subsequent monthly, quarterly or half yearly statements should also be provided.

The accounts of BlueScope Steel Limited (the parent company of Orrcon) are audited annually. This question is therefore not applicable.

5. If your accounting practices, or aspects of your practices, differ from Australian generally accepted accounting principles, provide details.

The accounting practices of Orrcon are maintained in accordance with Australia's generally accepted accounting principles.

6. Describe your accounting methodology, where applicable, for:

The below responses reflect, where applicable, those as relating to Orrcon in the manufacture of the subject goods. All others are as-applicable to Orrcon's ultimate parent entity, BlueScope Steel Limited.

BlueScope's accounting methodologies comply with Australian Accounting Standards issued by the Australian Accounting Standards Board (AASB), and International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB).

- The recognition/timing of income, and the impact of discounts, rebates, sales returns warranty claims and intercompany transfers;

Revenue is recognised by Orrcon when the significant risks and rewards of ownership of the goods have passed to the buyer. This occurs when legal title of the product is transferred to the customer and Orrcon is no longer responsible for the product. The point at which the title is transferred is dependent on the specific terms and conditions of the contract under sale.

Sales discounts are [commercial-in-confidence]. Rebates and warranty claims are [commercial-in-confidence]. Sales returns are [commercial-in-confidence].

- provisions for bad or doubtful debts;

Collectability of trade receivables are [commercial-in-confidence].

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- the accounting treatment of general expenses and/or interest and the extent to which these are allocated to the cost of goods;

General expenses are [commercial-in-confidence].

- costing methods (eg by tonnes, units, revenue, activity, direct costs etc) and allocation of costs shared with other goods or processes;

Orrcon's costing system is designed to enable:

- Actual process costs to be reported monthly;
- Cost detail reported at the cost element level;
- Actual fully absorbed product cost per unit of output (e.g. per tonne) at a product group level. Where standard cost methodologies are applied, standard product costs are updated for actuals on a monthly basis;
- Product costs to be broken down into components such as feed, conversion, yield, support costs etc; as well as
- The distinguishing of the underlying cost-behaviour (e.g. fixed, variable, etc).

- the method of valuation for inventories of raw material, work-in-process, and finished goods (eg FIFO, weighted average cost);

Raw materials, work-in-progress, and finished goods are stated at the lower of cost and net realisable value.

- valuation methods for scrap, by-products, or joint products;

At the lower of cost and net realisable value.

- valuation methods for damaged or sub-standard goods generated at the various stages of production;

At the lower of cost and net realisable value.

- valuation and revaluation of fixed assets;

Regular acquisitions and disposals of financial assets are recognised on trade-date; i.e. the date on which Orrcon commits to purchase or sell the asset. Investments are initially recognised at fair value plus transaction costs, for acquired financial assets not carried at fair value through profit or loss.

Financial assets carried at fair value through profit or loss are initially recognised at fair value, and transaction costs are expensed.

Financial assets on disposal are derecognised (progressively or otherwise) when the rights to receive cash flows have expired, or have been transferred and where Orrcon has transferred substantially all the risks and rewards of ownership.

- average useful life for each class of production equipment, the depreciation method and depreciation rate used for each;

Depreciation on assets other than land is calculated on a straight-line basis, to allocate cost over estimated useful life. The estimated useful lives of property, plant and equipment (including buildings) is up to 40 years.

- treatment of foreign exchange gains and losses arising from transactions and from the translation of balance sheet items; and

Foreign currency transactions are translated into the functional currency using the exchange rates prevailing at transaction date. Foreign exchange gains and losses resulting from the settlement of such transactions, and from the translation at year-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in profit or loss, except when they are deferred in equity as qualifying cash flow hedges and qualifying net investment hedges, or are attributable to part of the net investment in a foreign operation.

Translation difference on available-for-sale financial assets are included in equity until such time as the available-for-sale asset is sold and the translated amount is reported in the profit and loss.

- restructuring costs, costs of plant closure, expenses for idle equipment and/or plant shut-downs.

Not applicable.

7. If the accounting methods used by your company have changed over the period covered by the investigation please provide an explanation of the changes, the date of change, and the reasons.

Not applicable.

A-7 Cost information

1. Complete appendices A6.1 and A6.2 (cost to make and sell) for domestic and export sales.

Orrcon has completed Confidential Appendix A6 for the four-year period to 30 September 2020.

A-8 Other Factors

1. Complete appendix A7 (other injury factors).

Orrcon has completed Confidential Appendix A7.

A-9 Injury Claims

1. Please provide a statement setting out whether you support or oppose revocation of the anti-dumping measures. If you oppose revocation of the anti-dumping measures, provide evidence addressing whether, in the absence of measures, dumped imports would cause material injury to the local industry producing like goods.

Your response should consider:

1. Information on market trends for the goods in question, addressing in particular, in the absence of the measures, the:
 - i. Effects on volume and value of imports and sources of imports
 - ii. Effects on price
 - iii. Effects on sales and market shares
 - iv. Effects on key performance indicators such as:
 - a. profits,
 - b. price trends,
 - c. investment, and;
 - d. employment.

I. Recommendation

Orrcon strongly opposes the revocation of measures applicable to HiSteel. The following response addresses Orrcon's concerns and provides reasoning as to why the measures applicable to HiSteel should be maintained.

Section 269ZDA(1A)(b) of the *Customs Act 1901* ("the Act") requires the Commissioner to:

"...otherwise...make a revocation recommendation in relation to the measures, unless the Commissioner is satisfied as a result of the review that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent."

II. Recurrence of material injury that measures are intended to prevent

Orrcon is aware that the Commission determined a dumping margin for exports of HSS by HiSteel to Australia in Review Investigation 529 ("Review 529") of negative 6.2 per cent. The review investigation period was the twelve months ending 30 September 2019, and it was the first investigation in which HiSteel was a cooperative exporter.

HiSteel is currently subject to the floor price form of measure as an 'All other exporter' given its absence as an Australian exporter at the time the HSS measures were last reviewed (Review Inquiry No. 419). HiSteel notes in its revocation application that *"...it has not previously sold dumped HSS exports to Australia as it made only infrequent spot sales of very small quantities prior to 2017..."*¹

HiSteel's now apparent cooperation with the Commission does not automatically qualify the exporter for the revocation of the measures against it. Orrcon highlights that the preliminary dumping margin found during Review 529 should be viewed as having had the desired effect – that is, the measure has been effective in preventing dumping and the recurrence of material injury.

¹ HiSteel Revocation Application, p.6.

Orrcon notes the following comments of the ADRP concerning applications for the revocation of measures where negative margins of dumping have been established:

“The Anti-Dumping Review Panel considered this issue in ADRP Report No. 70 (REP70) in regard to Hot Rolled Coil (HRC) where the Commission had recommended the continuation of measures.

Whilst exports by the applicants were found not to be dumped during the inquiry period by negative margins, the Commission considered, if the measures were not continued, it is likely that future exports of HRC from the Applicants would be dumped, and that it was likely that material injury would be experienced by BlueScope as a result of that dumping.

The ADRP Panel Member in REP 70 affirmed the Commission’s recommendation that measures be continued noting in relation to the finding of no dumping:

As to the significance of the Applicants’ negative dumping margins throughout the inquiry period, neither the Anti-Dumping Agreement nor the Act requires revocation as soon as an exporter is found to have ceased dumping and the continuation of measures is not precluded a priori in any circumstances other than where there is present dumping.”

Orrcon does not consider that the recently determined finding involving exports by HiSteel (for the very first time) that confirmed a negative margin of dumping does not, of itself, support or justify the revocation of the measures.

III. Recent market trends

In recent Report No. 532,² the Commission concluded that for the twelve months ending September 2019 there had been a contraction in demand in the Australian HSS market from the previous twelve months. Orrcon highlights that there is likely a further contraction in demand in the twelve months to 30 September 2020 due to the effects of COVID-19 and the abandonment of larger scale projects given the uncertainty associated with long-term forecasts in the building and construction industry.³

The present climate for investment is uncertain. This could potentially lead to reductions in prices as suppliers in the HSS industry (including local manufacturers and importers) seek to secure sales at reduced prices.

The Commission is aware that customers of HSS in the Australian market are price sensitive. In Report 532 the Commission noted that:

“The Australian industry has regard to import price offers when setting prices. Its customers have ready access to both locally produced and imported products which are essentially interchangeable, and are therefore in a position to seek the most favourable terms, including price and anticipated delivery timeframes, and frequently negotiate on this basis.”⁴

Prices for locally manufactured HSS are therefore determined in response to import prices – including dumped prices.

Orrcon draws to the attention of the Commission its analysis in Report 532 at Section 5.4 where it undertook a comparison of prices and costs for all HSS (Figure 8), and galvanised and black HSS (Figure 9). The analysis confirms that across the four grades of HSS (i.e. all HSS) the Australian industry is struggling to achieve prices above its Cost to Make and Sell. This indicates that even the slightest reduction in import prices could negatively impact the Australian industry’s return.

² Continuation Inquiry 532, Hollow Structural Sections from Thailand.

³ This can be validated with reference to Orrcon’s Confidential Appendix A2.

⁴ Ibid.

Orrcon also notes the graph depicting market share for the Australian industry as reflected in Figure 7 of Report No. 532. The data confirms that the Australian industry is continuing to lose market share – and has been since measures were imposed in the 2013/14 year.

A further relevant and important factor was the Commission's conclusion at Section 5.7.2 that noted:

"...return on investment declined from 2016 and 2017, which coincided with a significant drop in capital investment in the same period."

In an environment of declining sales volumes due to displacement by imports and reducing returns on locally produced HSS, it is difficult for Orrcon (and no doubt other Australian industry producers) to re-invest in additional HSS capacity and product development.

The HSS industry therefore is precariously positioned. In the event that anti-dumping measures on exports from China, Korea, Malaysia and Taiwan are reduced (or even removed as proposed by HiSteel) then it is likely that the Australian industry would experience a reduction in its selling prices as it seeks to compete with lower priced injurious imports.

2. Information addressing the likelihood of material injury occurring to the Australian industry in the absence of the anti-dumping measures. Alternative sources of export supply that may arise following revocation of the measure, or production capacity in the country concerned, may be relevant.

IV. Likelihood of material injury in the absence of measures

HiSteel's Grounds for Revocation are Insufficient

Orrcon disagrees with HiSteel's assessment that the revocation of the measures applicable to HiSteel will not lead to a recurrence of dumping and material injury.

HiSteel has relied upon the Commission's findings in Report 532 to argue that its exports to Australia at negative margins of dumping do not represent a future threat of material injury to the Australian industry producing HSS. Orrcon highlights with the Commission that the findings in Report 532 were based upon:

- All Thailand ("Thai") HSS exporters having negative margins of dumping throughout the investigation period;
- The market share and volume of the Thai HSS exporters remaining stable over the period in which the measures applied;
- Thai exporters having consistently priced below the Australian industry's selling prices; and
- Thai exporters having not exploited their apparent cost advantage to further reduce prices that would have impacted the selling prices of the Australian HSS industry.

The findings in Report 532 may be contrasted with the facts as they relate to HiSteel, namely:

- Hi-Steel has not been actively involved as a cooperative exporter in review of measures investigations by the Commission since the measures were originally imposed – hence there is no track record of the exporter's pricing behaviour that can be reliably identified;
- Hi-Steel has, since the commencement of exports in 2016/17, increased export volumes to of HSS to Australia;
- Hi-Steel's exports to the United States ("U.S.") continue to attract anti-dumping measures in the U.S. market;
- Hi-Steel has maintained a distribution channel into the Australian market via a single importer; and
- Hi-Steel was the subject of a floor-price mechanism in the Interim Dumping Duty, whereas exports from Thailand were primarily the subject of *ad valorem* measures (except for Atlantic Pipe Company Limited, and Saha Thai Steel Pipe Public Company Limited).

Orrcon also submits that the degree of (preliminary) dumping found in Review 529 is unusual for a commodity product, is unlikely sustainable, and is the result of intermittent Australian export parcels at higher prices than would otherwise be the case under normal commercial export supply to the Australian market (to which Orrcon asserts HiSteel is aspiring). The revocation of measures would facilitate HiSteel's expansion into the Australian market at dumped and injurious prices. As HiSteel increases its offers and volumes into the Australian market, it will be a more significant exporter in the market, thus affecting import parity pricing and causing material injury.

Orrcon does not consider that HiSteel can rely on the export performance of the Thai HSS exporters the subject of measures that were originally imposed in 2014. The Commission had previously conducted a review investigation (Review 445) into exports by Thai HSS exporters prior to the recent continuation of measures investigation (Invest 532). HiSteel's supply to the Australian market – which only commenced in 2016/17 – cannot be compared and contrasted with the export history of Thai HSS exporters (which were observed well before the imposition of measures in 2014).

Model Control Code Categories

Orrcon is broadly in agreement with the Model Control Code (“MCC”) categories proposed by the Commission for Revocation 567, these being:

Item	Category	Sub-category	Identifier	Sales Data	Cost data	Key category
1	Prime	Prime	P	Mandatory	Not applicable	Yes
		Non-Prime / downgrade	N			
2	Galvanising	Galvanised	G	Mandatory	Mandatory	No
		None (e.g. mill finish, 'black')	N			
3	Finish	Oiled	O	Mandatory	Mandatory	No
		Painted	P			
		No oil or paint	N			
4	Shape	Circular	C	Mandatory	Mandatory	Yes
		Rectangular or square	R			
5	Steel grades - nominal minimum yield strength	Structural steel grade with nominal minimum yield strength less than or equal to 300 MPa	250	Mandatory	Optional	No
		Structural steel grade with nominal minimum yield strength greater than 300 MPa but less than 380 MPa	350			
		Structural steel grade with nominal minimum yield strength equal to or greater than 380 MPa	450			
		Non-structural steel grade	N			
6	Ends	Plain	P	Optional	Optional	No
		Threaded (at one or both ends)	T			
		Threaded and coupled	C			

Whilst in agreement, Orrcon refers to (and concurs with) earlier representations made by Australian industry in Review 529 (tabled below) which proposed an expansion to the MCC's to ensure appropriate comparisons of domestically sold and Australian exported HSS:⁵

⁵ Review 529, EPR folio no. 6.

OFFICIAL: PUBLIC FILE

Model Control Codes - Hollow Structural Sections (HSS) REV 529							
Item	Category	Sub category	Identifier	Sales data	Cost data	Key category	Notes
1	Prime	Prime	P	Mandatory	Not Applicable	Yes	Non-prime products are typically downgrade that are sold below their full cost to make and sell but at a higher price than scrap value.
		Non-Prime	N				
2	Finish or Coating	Galvanised	G	Mandatory	Mandatory	No	Reports the surface finish of the HSS. "Other" includes No Oil or Paint (NOPC), oiled, lacquered and any other non-paint or non-galvanised finish.
		Painted	P				
		Other	N				
3	Shape (compare same shapes)	Circular Hollow Section (CHS)	C	Mandatory	Optional	No	Like shapes need to be compared to each other, there are observable price differences.
		Rectangular Square Hollow Section (RHS SHS)	R				
		Other (oval, rail, silo)	O				
4	Steel grades/ Standards nominal minimum yield strength	Minimum yield strength less than 300MPa.eg AS 1074 and AS/NZS 1163-250 - Compare to TIS 107-2533 Grade HS41, JIS G3444 Grade STK400, JIS G3466 Grade STKR400, ASTM A500 Grade A and B.	250	Mandatory	Mandatory	No	This category reports the steel grade of Hollow Structural Section (HSS). There are observable cost differences in the price of coil used to produce the different grade products. The steel grade determines the guaranteed or typical mechanical properties of the product. The 250 / 350 / 450 type grades are 'Structural' steel grades, with the numerical values designating their minimum Yield Strength.
		Minimum yield strength 300MPa to 380 MPa. eg AS1450 and AS/NZS 1163-350 Compare to TIS 107-2533 Grade HS51, JIS G3444 Grade STK490, JIS G3466 Grade STKR490, ASTM A500 Grade C.	350				
		Minimum yield strength greater than 380MPa. eg AS/NZS 1163-450	450				
		No nominal minimum yield strength specified	N				
5	End type	Plain	P	Mandatory	Optional	No	Different end types have observable differences in price points.
		Threaded one end or both ends	T				
		Other eg. swaged, shouldered, coupled	O				
6	Gauge, thickness	<= 2mm: less than or equal to 2mm thickness	1	Mandatory	Optional	No	There are observable price differences depending on the gauge or thickness of the HSS.
		> 2mm to <= 5mm: greater than 2mm to 5mm thickness	2				
		> 5mm: greater than 5mm thickness	3				

Of significance to this inquiry is the inclusion of Gauge/Thickness to the MCC nomenclature, given the material pricing differences for this product characteristic.⁶

HiSteel notes in its application that its exports to Australia involve only one HSS product type, classified under one MCC (P-N-O-R350-P).⁷ Importantly however, this MCC appears to relate to the twelve-month period prior to the investigation period. In response to question 6 of the revocation application (requiring the total quantity and value of the goods exported to Australia during the review period) HiSteel notes:

*"Hi-Steel exported XXXXX metric tonnes of the goods with the estimated value of US\$ XXXXX during the period 1 October 2018 to 30 September 2019."*⁸ (emphasis added).

HiSteel then provide the following table of its Australian export volumes for the three years prior to (HiSteel's understanding of) the review period:⁹

⁶ Orrcon's Confidential Appendix A4 includes the Gauge/Thickness MCC component.

⁷ HiSteel Revocation Application, p.6-7.

⁸ Ibid, p.6.

⁹ Ibid, p.7.

Period	Quantity (MT)	Value (USD)
201510~201609	XXXXX	XXXXX
201610~201709	XXXXX	XXXXX
201710~201809	XXXXX	XXXXX
Total	XXXXX	XXXXX

By extension, HiSteel's singular MCC relates to Australian exports during the twelve months ending September 2019, and not for the twelve-month inquiry period ending September 2020. HiSteel has hence not provided its most recent Australian export details according to the MCC requirements but would have had adequate time to articulate these prior to the lodgement of its revocation application on or around August 28, 2020. Orrcon requests that the Commission clarify this point.

Notwithstanding the potentially out-of-date MCC, HiSteel claims that such product classification simplicity (being only the one MCC) permits an easy review of home market pricing to ensure dumping will not transpire in the future.

Orrcon submits, however, that adding gauge/thickness alone to the MCC will expand HiSteel's MCC from one to multiple. HiSteel's expected expansion into the Australian market should the measures be revoked (discussed further below) would also theoretically require its future Australian HSS exports be classified to more than one MCC (refer Confidential Attachment 1). HiSteel's statement then that it can ensure no future dumping (and consequent injury) in the absence of measures in this regard is invalid.

Global Trading Environment, Excess Capacity, and Diversion

Within the context of a continuation inquiry when assessing whether the expiration of the measures would lead, or would likely lead, to the continuation or recurrence of dumping, a relevant consideration is whether exports are likely to continue or resume based on the world market for the goods.¹⁰ Orrcon submits this is also a relevant consideration in the current revocation inquiry, and that that global steel excess capacity, including HSS excess capacity, represents a material consideration in whether the measures should be revoked.

An analysis of excess capacity in the subject goods industry requires consideration of both overcapacity in the industry specifically, and the steel industry more generally. HSS is produced from HRC substrate – a product of primary steel production. Overcapacity in such primary steel production affects the volume of production, price, profitability, and export orientation of the subject goods.

The Commission's Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission¹¹ found that ongoing excess capacity is a significant challenge for the global steel industry, particularly in Asia. In relevant part:

“Excess capacity – a problem that afflicts the steel industry – is a significant issue for the sector. The growing gap between global steelmaking capacity and demand has led to deterioration in the financial situation of steelmakers, and raised concerns about the longer-term economic viability and efficiency of the industry”.

The tipping point in global steel excess capacity was recognised by the Organisation of Economic Cooperation and Development (“OECD”) in April 2016 when it took the unprecedented step of convening a high-level meeting in Brussels attempting to address the problem. It noted that excess capacity is the biggest challenge facing the steel industry:

¹⁰ Anti-Dumping and Subsidy Manual, November 2018, p.176.

¹¹ <https://www.industry.gov.au/data-and-publications/analysis-of-steel-and-aluminium-markets>

*“Excess steelmaking capacity – a global challenge that continues to grow – is creating significant difficulties for steel producers in advanced, emerging and developing economies alike. Low steel prices, weak profitability, trade disturbances in some jurisdictions, and an escalation of trade actions against steel imports are some of the immediate impacts of excess capacity that are being felt by steel manufacturers around the world. These effects are pronounced due to the weakness of global steel markets and sluggish growth prospects. Alleviating excess capacity would lead to improved and more stable business conditions, and allow the industry to face a number of long-term challenges more effectively”.*¹²

At the March 2018 OECD Steel Committee meeting, it was further noted that:

*“New investment projects continue to take place around the world and global steelmaking capacity could increase by 2.0% between 2018 and 2020 in the absence of any further closures. Global excess capacity is expected to continue to be a major challenge for the global steel industry—calling for urgent, accelerated actions to reduce it. Economies at the heart of the increase in capacity have an important role in this regard, and those increasing capacity should do so strictly in line with demand to avoid an exacerbation of the problem.”*¹³

In March 2019, the OECD Steel Committee again “...expressed concerns about the low growth prospects for the global economy and global steel markets, noting that decelerating demand growth and virtually unchanged steelmaking capacity result in a persistence of severe excess capacity in the steel sector.”¹⁴

More recently, on 25 November 2019 the South East Asian Iron and Steel Institute (“SEAISI”) highlighted that the ASEAN region is slated to significantly increase its overall steelmaking capacity.¹⁵ SEAISI forecasts an alarming increase across the region from the current existing capacity of 83.7 million metric tonnes, to 144.2 million metric tonnes.¹⁶ This will be driven primarily by Chinese investment¹⁷, the steel industry of which is not impartial to ignoring the economic and fiscal impacts of unmitigated steel manufacture in the face of stagnant global demand.

Orrcon contends that overcapacity in the global steel market generally has an impact on the goods the subject of this revocation inquiry specifically. Such global excess capacity leads to excess capacity and low prices for HSS. It is highly likely then that this global oversupply translates to a displacement of export volumes to open markets, making Australia an attractive destination for Korean-origin dumped and injurious excess HSS, including from HiSteel.

The Economic Outlook for Steel

In further considering the world market for the goods, Orrcon contends that domestic and international market characteristics are factors that should be considered vis-à-vis revocation of the HSS measures against HiSteel.

Irrespective of relatively recent overall steel market improvements (during late 2016 and 2017), the steel industry remains vulnerable, and several factors could (and have) reverse(d) these earlier gains.

¹² OECD, High-Level Meeting, Excess Capacity and Structural Adjustment in the Steel Sector: Background Note No. 2: Capacity Developments in the World Steel Industry” (April 18, 2016) at p.2.

¹³ OECD, “Statement by Lieven Top, Chair of the OECD Steel Committee”, 84th Session of the OECD Steel Committee, (5-6 March 2018).

¹⁴ OECD, “Statement by Mr Jai Motwane, Vice Chairman of the OECD Steel Committee”, 86th Session of the OECD Steel Committee, (25-26 March 2019).

¹⁵ Confidential Attachment 2: South East Asian Iron & Steel Institute, “Update on ASEAN Steel Industry Development Scenario”, (25 November 2019).

¹⁶ Ibid.

¹⁷ Ibid.

Global economic expansion lost momentum during 2018, and according to the OECD "...global GDP growth forecasts were revised downward, to 3.3% for 2019 and 3.4% for 2020."¹⁸ At the most recent meeting of the OECD Steel Committee in March 2019, the Steel Committee "...expressed concerns about the low growth prospects for the global economy and global steel markets..."¹⁹ They also reported that:

*"The second half of 2018 saw a marked decline in steel market conditions, with steel prices erasing their earlier gains to fall back to pre-2018 levels. Global crude steel production increased by 4.8% in 2018, while steel consumption growth has been decelerating in most of the large steel-consuming economies. Risks to the steel sector outlook are high, given the pronounced weakening of the global economy, trade frictions, and persisting structural imbalances."*²⁰

Orrcon notes that:

- Commodity prices have been volatile, in particular non-oil commodities such as steel;²¹
- The UK's economy has been weakened since the referendum on Brexit; this has affected economies globally;²²
- The US-China trade war has also severely affected their trading relationship and it is projected that any additional "US-China trade shocks would have global effects, especially if uncertainty rose further."²³

As recently as April 22, 2020, the Australian Steel Institute ("ASI") highlighted as follows, in relation to anticipated Coronavirus ("COVID-19") impacts:

"(ASI) members are reporting a contraction in future construction activity, likely to cause a significant downturn in this critical sector of the economy. The underlying causes of this downturn are deteriorating liquidity and business confidence, both directly related to COVID-19 impacts.

*International stockpiles of steel have grown significantly during the period of disruption caused by coronavirus lockdowns and have now reached 10-year highs in China. At the same time, the Chinese Government has increased export incentives by raising the tax rebate available to exporters. This combination of conditions mean that the Australian steel industry is particularly vulnerable to injury caused by dumped steel...."*²⁴

The pessimistic economic outlook for steel, including that of HSS, should suggest to the Commission that Australia is not immune to the wide-reaching effects of the current and expected future downturn. Applied here, Orrcon asserts that a recurrence of dumping and subsequent injury is highly likely from HiSteel's exports of HSS given their already established patterns of trade, and well-maintained distribution links.

Measures Imposed by Other Countries

United States

In the Sunset Inquiry for *Circular Welded Non-Alloy Steel Pipe from South Korea*,²⁵ the United States ("U.S.") International Trade Commission ("ITC") made an affirmative determination to continue the measures (with effect from February 7, 2018).

In terms of the **volume effects** of Korean CWP exports, the ITC found that:

¹⁸ OECD, "Statement by Mr Jai Motwane, Vice Chairman of the OECD Steel Committee", 86th Session of the OECD Steel Committee, (March 25-16, 2019).

¹⁹ Ibid.

²⁰ Ibid.

²¹ OECD, "Global Economic Outlook", 86th Session of the OECD Steel Committee (March 25, 2019) at slide 10.

²² Ibid, slide 12.

²³ Ibid, slide 15.

²⁴ Australian Steel Institute, "Trade-Related Issues Caused by COVID-19", accessed on 22 April 2020 at <https://www.steel.org.au/advocacy/anti-dumping/trade-related-issues-caused-by-covid-19/>.

²⁵ U.S. Department of Commerce Case No. A-580-809. U.S. International Trade Commission No. 731-TA-533

“...in particular the substantial presence of subject imports in the U.S. market even under the discipline of the orders; the size of the industries in the subject countries, their excess capacity, and their export orientation; the attractiveness of the U.S. market; and restrictions on the subject countries’ exports in various third-country markets, we find that subject producers would likely increase their exports to the United States if the countervailing and antidumping duty orders were to be revoked. Accordingly, we conclude that the volume of subject imports would likely be significant, both in absolute terms and relative to U.S. consumption, should the orders be revoked.”²⁶

In terms of the **price effects** of Korean CWP exports, the ITC found that:

“...subject imports would likely undersell domestically produced CWP, as they did during the original investigations. Consequently, there would likely be significant underselling by subject imports. The likely significant volume of subject imports, which would undersell the domestic like product, would likely force the domestic industry to lower prices or lose sales. In light of these considerations, we conclude that subject imports would likely have significant depressing or suppressing effects on prices for the domestic like product upon revocation of the orders.”²⁷

In terms of the **market effects** of Korean CWP exports, the ITC found that:

“...given the high degree of substitutability of CWP from different sources, the fact that the domestic industry is currently the largest supplier to the U.S. market, and the increase in cumulated subject imports’ market share since the last five-year reviews despite the restraining effects of the orders, any increase in cumulated subject import volume and market penetration is likely to come, at least in substantial proportion, at the expense of the domestic industry. In light of these considerations, we find that the effects we have attributed to the subject imports are distinguishable from any effects likely from non-subject imports in the event of revocation.”²⁸

Orrcon respectfully submits, irrespective of this, that the above U.S. determination that:

- *“...subject producers would likely increase their exports to the United States if the countervailing and antidumping duty orders were to be revoked.”; and*
- *“...subject imports would likely have significant depressing or suppressing effects on prices for the domestic like product upon revocation of the orders.”*

is indicative of the likely future outcome should the HSS measures be revoked on HiSteel’s HSS exports to Australia.

The ITC also found that CWP imports from Korea would have a discernible adverse impact on the domestic industry if the antidumping duty order covering Korean imports were revoked. The ITC made its finding for Korea on the basis of its previous and current trade of CWP; exports of CWP globally increased from 405,031 short tons in 2012 to 449,754 short tons in 2016; and Korean exports of CWP to the U.S. market increased from 108,983 short tons in 2012 to 143,341 short tons in 2016. This represents a 32 per cent increase in only four years.

The ITC also commented that CWP from Korea is subject to antidumping duties in Canada, and that Korea was the fourth-largest global exporter of CWP (behind China, Italy, and Turkey) each year from 2013 to 2016.²⁹

²⁶ Ibid, Final Determination.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

Prior to the U.S. Sunset Inquiry, HiSteel had not been assigned an exporter-specific ad valorem dumping margin (rather, they were subject to the all other rate of 1.2%), presumably on the basis that they had not exported material volumes of CWP so as to be considered a respondent exporter. Following continuation of the Korean CWP measures as a result of the Sunset Inquiry, the U.S. Department of Commerce (“DOC”) conducted an annual Administrative Review and assigned HiSteel an ad valorem AD margin of 9.53%.³⁰

This outcome is telling – an exporter under U.S. measures is typically only made the subject of an annual Administrative Review where it exports a ‘commercial quantity’ of the subject goods during the applicable review period. The requirement for a ‘commercial quantity’ is not defined within either the U.S. anti-dumping statute or DOC regulations but is rather a DOC policy interpretation requiring that export sales be “bona fide sales” in order to qualify for an Administrative Review. The DOC interprets the term “bona fides” to mean in-commercial-quantities.³¹

Either the exporter, or the U.S. petitioner industry, then request review of the dumping margin on these commercial quantity shipments. In HiSteel’s case, they were not a cooperating exporter in the original CWP investigation, given low/zero volume exports. It appears that they then increased their export volumes to the U.S. during the first twelve-month period following continuation (this being the twelve months ending October 2017³²), in sufficient enough quantities to prompt U.S. industry to request that they be reviewed and assigned their own ad valorem margin.³³

In its application to Revocation 567, HiSteel notes that it has been exporting to Australia since 2015/16, and that its export volumes have increased. Clearly, HiSteel’s export trading channels for HSS are opportunistic and are dictated by jurisdictional trade measures. Orrcon submits that a revocation of HiSteel’s measures will result in a future pattern of trade similar to that of the U.S.; a further increase in dumped (and consequently injurious) HSS exports to Australia.

Canada

In the May 2019 Canadian *Expiry Review Determination respecting Certain Hollow Structural Sections Originating in or Exported from South Korea and Turkey*,³⁴ the Canada Border Services Agency (“CBSA”) concluded that the expiration of measures would likely result in the continuation or resumption of dumping of HSS from South Korea and Turkey.

The CBSA concluded that South Korean HSS producers are highly leveraged to export markets, have a propensity to dump as evidenced by the numerous other anti-dumping measures imposed concerning steel products (including HSS and other steel pipe & tube, by both the CBSA and other jurisdictions), and that expiration of the measures was hence likely to result in the continuation or resumption of dumping.³⁵

³⁰ Non-Confidential Attachment 3: United States Department of Commerce, International Trade Administration; Memorandum – Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Calculation of the Final Margin for Respondents.

³¹ The most recent instance of the DOC’s refusal to conduct an Administrative Review when the quantities were not commercial was *Certain Hot-Rolled Flat Rolled Carbon Quality Steel Products from the Russian Federation*, 84 Fed. Reg. 38,948 (August 8, 2019). In the subsequent court appeal of that decision, the DOC cited two previous decisions to the effect that the DOC may disregard export sales (and refuse to conduct) an Administrative Review when the sales are “...not typical of a company’s normal business practices, [are] not consistent with good practices, or [are] structured so as to be commercially unreasonable.” The cases the DOC cited are *Catfish Farmers of America v. United States*, 641 F. Supp. 2d 1362 (Ct. Int’l Trade 2009); and *American Silicon Tech v. United States*, 110 F. Supp. 992 (Ct. Int’l Trade 2000).

³² Orrcon highlights this review period as being **prior to** the imposition of the U.S. s232 steel tariff against South Korea. As discussed below, the s232 steel tariff had the effect of reducing Korea’s U.S. exports of HSS by a material magnitude. HiSteel’s pattern of dumped and injurious trade in the subject goods to the U.S. was hence firstly influenced by the lack of an effective HSS trade remedy prior to the above-noted Administrative Review, followed by the 232 national security measure.

³³ Non-Confidential Attachment 4: Federal Register / Vol. 84, No. 25 / Wednesday, February 6, 2019 / Notices (p.3).

³⁴ Canada Border Services Agency; *Certain Hollow Structural Sections Originating in or Exported from South Korea and Turkey*, Statement of Reasons, May 2019.

³⁵ *Ibid*, p.30.

In determining whether the expiry of the measures was likely to result in a continuance of, or recurrence of, material injury to Canadian domestic HSS producers, the Canadian International Trade Tribunal (“CITT”) assessed the following:³⁶

- International and domestic market conditions;
- Likely future import volumes of the dumped goods;
- Likely performance of the foreign industry;
- Likely price effects of dumped goods (pricing trends and price effect analysis);
- Likely impact on the domestic industry; and
- Factors other than dumping.

The CITT found that rescission of the anti-dumping order would, in and of itself, likely cause material injury to the domestic industry.³⁷

In the May 2018 Canadian *Expiry Review Determination regarding the Dumping of Certain Carbon Steel Welded Pipe from Chinese Taipei, India, Oman, The Republic of Korea, Thailand, and the United Arab Emirates, and the Subsidizing of Certain Carbon Steel Welded Pipe from India*³⁸ the CBSA concluded that the anti-dumping and countervailing duties should be continued, which was then ratified by the Canadian International Trade Tribunal.

Orrcon submits that the findings of this investigation (with the subject goods being closely related to that of HSS) are also relevant to the current inquiry, and highlights the pertinent facts of the determination:

- Korea has a propensity to export various steel pipe products to Canada at dumped and injurious prices, as evidenced by the trade measures in force for products such as Steel Line Pipe, and Oil Country Tubular Goods;³⁹
- Numerous measures imposed by other jurisdictions (notably the U.S.) demonstrates an overarching propensity of Korean pipe & tube producers to dump;⁴⁰ and
- Volume diversion into the Canadian market is likely on expiration (with specific reference made to the U.S. measures).⁴¹

Other Jurisdictional Steel-Related Trade Measures

There are also broader measures applied by the U.S. and European Union (“EU”) that impact a broader category of steel products (including carbon welded steel pipe and tube, which includes HSS). The U.S. imposed the Section 232 measures on steel products (with effect from 20 May 2018) imported into the U.S. Initially, this included Korea, and resulted in a 9 per cent decline in Korean steel exports to the U.S. in the first half of calendar year 2018.⁴²

Korea subsequently negotiated changes to the US-Korea Free Trade Agreement (KORUS), which removed the s232 tariff and imposed a quota on Korean exports of steel at 70 per cent of the recent annual average. Orrcon submits that quotas that restrict exports from Korea to the U.S. to levels below pre-quota levels will likely result in diversion of those exports to other markets, including to Australia.

³⁶ Canadian International Trade Tribunal; Expiry Review No. RR-2018-006, Structural Tubing. Order and reasons issued Wednesday, October 16, 2019.

³⁷ Ibid.

³⁸ Canada Border Services Agency; *The Dumping of Certain Carbon Steel Welded Pipe from Chinese Taipei, India, Oman, The Republic of Korea, Thailand, and the United Arab Emirates, and the Subsidizing of Certain Carbon Steel Welded Pipe from India*, Statement of Reason, May 2018.

³⁹ Ibid, p.35.

⁴⁰ Ibid, p.36.

⁴¹ Ibid.

⁴² Canada Border Services Agency; *Certain Hollow Structural Sections Originating in or Exported from South Korea and Turkey*, Statement of Reasons, May 2019, p.25.

Orrcon has accessed [*commercial-in-confidence import data source*] HS data at the six-digit level for code 7306.30 (circular HSS) and 7306.61 (square, rectangular, and other non-circular HSS) for Korea's exports to the U.S. and Canada. The export volume trend during the period prior to, and subsequent to, imposition of the section 232 trade remedy is represented in the following chart and data table:

[Confidential Chart 1: South Korean HSS Exports to the United States]

[Confidential Table 1: South Korean HSS exports to the United States]

Orrcon submits that Korea's U.S. exports are no longer high following imposition of the section 232 in March 2018, and that there has been a clear diversion away from this market. In the absence of continued measures, this displaced volume will be increasingly diverted to Australia as an attractive open-market destination for dumped and injurious Korean excess HSS, including that from HiSteel.

Orrcon also highlights with the Commission the significant volume increase of Korea-origin exports to the U.S. between 2016 and 2017, indicating a clear ability to export large volumes over a short period via established distribution links. This capability extends to Korea's (and HiSteel's) Australian channel to market, with the absence of measures likely to lead to a material increase in export volumes and a recurrence of dumping and material injury.

In response to the U.S. Section 232 measures, the EU imposed provisional safeguard measures on 28 categories of goods with effect from 17 July 2018. The EU measures are in place for three years from 17 July 2018 and impact HSS products also.

The Canadian, EU and U.S. measures applicable to certain carbon welded steel pipe and tube impacts all exporters of these goods in Korea. HSS is a sub-category of carbon steel welded pipe and tube, and hence the trade restrictions in place materially alter Korea's HSS export intentions, including that of HiSteel.

V. Conclusion

It is Orrcon's assessment that HiSteel has not established sufficient and reliable grounds that it will not export at dumped prices in a contracting market (from 2020 onwards) resulting in a recurrence of material injury that the measures are intended to prevent.

Orrcon is seeking the Commission to reject HiSteel's request for the revocation of measures applicable to Hi-Steel's exports so that the measures apply to ensure the recurrence of material injury from dumping does not occur.

3. Discuss factors other than dumped imports that may have caused injury to the industry. This may be relevant to the review in that an industry weakened by other events may be more susceptible to injury from dumping.

Factors Other than Dumped and Injurious Imports

Orrcon, along with other industries in Australia, is not immune to recent energy cost increases. Orrcon has been unable to pass on higher energy costs as it has experienced ongoing price undercutting from imports of HSS from Korea.

Orrcon does not consider there are any 'other' factors that may have contributed to Orrcon's injury, other than increasing energy costs. Higher energy costs do not detract from the reality that should HiSteel's measures be revoked, HiSteel's dumped and increasingly higher volume exports to Australia will transact at prices undercutting those of Orrcon and have an impact that is considered 'material' in nature to Orrcon's profit and profitability.

APPENDICES

Appendix A1	Australian Production
Appendix A2	Australian Market
Appendix A3	Sales Turnover
Appendix A4	Domestic Sales
Appendix A5	Sales of Other Production
Appendix A6.1	Cost to Make and Sell (& profit) Domestic Sales
Appendix A7	Other Injury Factors