



## **ANTI-DUMPING NOTICE NO. 2021/122**

*Customs Act 1901 – Part XVB*

**Initiation of Continuation Inquiry No 590  
Regarding the Anti-Dumping Measures Applying to  
Certain Hollow Structural Sections  
Exported to Australia from the People’s Republic of China,  
the Republic of Korea, Malaysia and Taiwan**

***Notice under section 269ZHD(4) of the Customs Act 1901***

I, Dr Bradley Armstrong PSM, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the anti-dumping measures applying to certain hollow structural sections (HSS or the goods) should continue or expire. The anti-dumping measures apply to goods exported to Australia from the People’s Republic of China (China), the Republic of Korea (ROK), Malaysia and Taiwan (collectively, the subject countries).

The anti-dumping measures are in the form of a dumping duty notice for the subject countries, and a countervailing duty notice for China.

The dumping duty notice applies to all exporters of the goods from the subject countries except for Kukje Steel Co., Ltd (Kukje) from the ROK.

The countervailing duty notice applies to all exporters of the goods from China except:

- Huludao City Steel Pipe Industrial Co., Ltd (Huludao City Steel) and
- Dalian Steelforce Hi-Tech Co., Ltd (Dalian Steelforce).

The anti-dumping measures are due to expire on 3 July 2022.<sup>1</sup>

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<sup>1</sup> On and from 4 July 2022, if not continued, the anti-dumping measures would no longer apply.

## 1. The goods

The goods subject to the anti-dumping measures and this inquiry are:

*certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised or hot-dipped galvanised (HDG) and non-galvanised HSS.*

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

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*.

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 25 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 5.4 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 1: General tariff classification for the goods**

On 17 March 2016, the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (then Assistant Minister) altered the dumping duty and countervailing duty notices for the goods exported from China and Malaysia, taking effect after 11 May 2015. This was a result of an anti-circumvention inquiry into the slight modification of goods exported from

China, Korea and Malaysia. Consequently, the tariff subheadings 7306.61.00 (90) and 7306.50.00 (45) only apply to the following exporters/suppliers: Dalian Steelforce (China); Tianjin Friend Steel Pipe Co., Ltd (China); Tianjin Ruitong Iron and Steel Co., Ltd (China); Roswell S A R Ltd (China); and Alpine Pipe Manufacturing SDN BHD (Malaysia).<sup>2</sup>

Certain categories of HSS are excluded from the goods subject to measures, including conveyor tube, precision RHS with a nominal thickness of less than 1.6 mm and air heater tubes to Australian Standard (AS) 2556.

Effective 16 February 2016, the then Assistant Minister exempted the following goods from interim dumping duties, dumping duties, interim countervailing duties and countervailing duties:

- Tubes, square or rectangular, electric resistance welded, complying with Australian/New Zealand Standard 1163:2009 (AS/NZS 1163:2009), Grade C350L0 or C450L0, with a perimeter not less than 1,050 mm and having either:
  - silicon content plus 2.5 times the phosphorus content NOT greater than 0.09%
  - silicon content greater than 0.14% and NOT greater than 0.24%.<sup>3</sup>

Further details on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission's (the commission) website ([www.adcommission.gov.au](http://www.adcommission.gov.au)).

## **2. Background to the anti-dumping measures**

The anti-dumping measures were initially imposed by public notice on 3 July 2012 by the then Minister for Home Affairs following consideration of *International Trade Remedies Branch Report no. 177* (REP 177).

The investigation and the imposition of the anti-dumping measures resulted from applications made under section 269TB of the *Customs Act 1901*<sup>4</sup> by Austube Mills Pty Ltd (Austube Mills) and Orrcon Manufacturing Pty Ltd (Orrcon). Both Austube Mills and Orrcon represented the Australian industry producing like goods to the goods subject to the anti-dumping measures at that time.

A background to key cases<sup>5</sup> in relation to the goods is summarised in Table 1 below.

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<sup>2</sup> Refer to ADN no 2016/24 and Anti-Dumping Commission Report no 291.

<sup>3</sup> Refer to ADN no 2016/116. Refer also to Tariff Concession Order 1609617, available on the Australian Border Force website: [www.abf.gov.au](http://www.abf.gov.au)

<sup>4</sup> All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

<sup>5</sup> Reports and documents relating to these cases are available on the commission's website.

Case type and report no.	Anti-Dumping Notice (ADN) no	Date	Country of export	Findings
Investigation REP 177	2012/31	3 July 2012	China, the ROK, Malaysia and Taiwan	Dumping duty and countervailing duty notices published
Reinvestigation REP 203	2013/35	13 May 2013	China, the ROK, Malaysia and Taiwan	REP 177 affirmed with a variation to the dumping duty notice in relation to Dalian Steelforce
Federal Court decision <sup>6</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, the ROK, and Malaysia	Dumping duty and countervailing duty notice amended to expand tariff classifications covered for certain exporters found to have engaged in a circumvention activity
Continuation REP 379	2017/70	21 June 2017	China, the ROK, 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, the ROK, Malaysia and Taiwan	Variation of the dumping duty and countervailing duty notices
Review REP 529	2021/11	9 March 2021	China, the ROK, Malaysia, Taiwan (and the Kingdom of Thailand (Thailand)) <sup>7</sup>	Variation of the dumping duty and countervailing duty notices. Anti-dumping measures revoked with respect to Kukje

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

### 3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with section 269ZHB(1), I published a notice<sup>8</sup> on the commission's website on 29 June 2021. The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i) or

<sup>6</sup> *Dalian Steelforce Hi-Tech Co Ltd v Minister for Home Affairs* [2015] FCA 885.

<sup>7</sup> Separate anti-dumping measures were imposed in relation to Thailand following Investigation no 254. However, these anti-dumping measures since expired on 27 July 2020.

<sup>8</sup> ADN no 2021/083 refers.

- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

On 17 August 2021 and 27 August 2021, an application for the continuation of the anti-dumping measures was received from Austube Mills and Orrcon, respectively. Non-confidential versions of these applications are available on the commission's public record.

Having regard to both applications and the original investigation, I am satisfied that Austube Mills and Orrcon are persons under section 269ZHB(1)(b)(i) because both Austube Mills's and Orrcon's applications under section 269TB resulted in the existing anti-dumping measures.

#### **4. Consideration of application under section 269ZHD(1)**

Pursuant to section 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in section 269ZHD(2). These are:

- the application complies with section 269ZHC (section 269ZHD(2)(a)); and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (section 269ZHD(2)(b)).

#### **5. Assessment under section 269ZHD(2)(a) - compliance with section 269ZHC**

I consider that the applications comply with the requirements of section 269ZHC because they:

- are in writing
- are in a form approved by me for the purposes of this section
- contain the information that the form requires
- are signed in the manner indicated by the form
- were lodged in a manner approved under section 269SMS, being by email to the commission's email address provided in the instrument under section 269SMS.<sup>9</sup>

#### **6. Assessment under section 269ZHD(2)(b) – reasonable grounds**

##### Applicants' claims

In their applications, Austube Mills and Orrcon claim, among other things, that:

- since the anti-dumping measures were continued in 2017, two reviews have found that exporters from Malaysia, Taiwan and China had continued to dump and in the most recent review exporters from the ROK were found to have been dumping

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<sup>9</sup> A copy of the instrument can be found on the commission's website.

- the original investigation found a number of subsidy programs, with respect to exports from China, to be countervailable and that in REP 529 the commission found 52 existing programs and 14 new programs to be countervailable
- exporters have generally maintained their distribution channels to Australia and continue to export the goods to the Australian market since the imposition of measures
- there is an excess capacity globally with respect to the goods and with measures in place in other jurisdictions this excess may be redirected to Australian markets in the absence of measures
- with respect to exports from China, artificially low input prices provide Chinese exporters with a competitive advantage. REP 529 found a particular market situation existed in the domestic market for HSS in China and that this still applies
- despite the COVID-19 pandemic causing short to medium term disruptions to global supply chains, there remains underlying global overcapacity of steel production that will drive marginally costed products to be exported to countries that don't have effective fair trade remedies in place
- the Australian market is price sensitive, and in the absence of measures it is likely that exporters would lower prices to increase sales volumes and market share, causing Australian industry to reduce its selling prices to limit the loss of sales volume caused by the lower prices of dumped imports
- the reduced prices and sales volumes experienced by Australian industry in response to dumped imports would translate into reductions in profit and profitability, as well as a deterioration in other economic factors
- the expiration of measures would therefore lead to, or be likely to lead to, a continuation or recurrence of the material injury that the measures are intended to prevent

As part of its application, Orrcon provided export data for the goods to demonstrate that subject countries continue to export the goods to Australia.

## **7. Consideration of the application**

### Are exports from the subject countries likely to continue or recur?

The commission has examined information it obtained from the Australian Border Force (ABF) import database and has found that exporters from the subject countries have continued to export the goods to Australia since the imposition of the anti-dumping measures. This confirms that exporters from the subject countries have maintained distribution links into the Australian market and that exports from the subject countries are likely to continue.

### Likelihood that dumping and subsidisation would continue or recur

My findings in REP 419 and REP 529 confirm that exporters from the subject countries have continued to export the goods at dumped prices since the imposition of the anti-dumping measures.<sup>10</sup>

Additionally, I found in REP 529 that Chinese exporters continue to receive countervailable subsidies. Consistent with the applicants' claims, in REP 529 I found 66 subsidy programs to be countervailable. Having regard to the policies, eligibility criteria and legislation underpinning these subsidy programs I consider it is likely that subsidisation will continue. This is evidenced by my recent Investigation nos. 550 and 553 into precision pipe and tube and painted steel strapping. In those investigations I have preliminarily found that a number of the subsidy programs countervailed in REP 529 remain available to exporters in China.<sup>11</sup>

### Likelihood that material injury would continue or recur

The evidence Austube Mills and Orrcon submitted in the applications indicates that the Australian market for HSS has expanded to the year ending 30 June 2021. This is possibly due to increased demand from government stimulus in response to the COVID-19 pandemic. Over the same period shipping issues associated with the COVID-19 pandemic may have reduced the volume of imports reaching the Australian market.

As a result of these factors, and the impact of the anti-dumping measures, the applications indicate that the Australian industry has recently increased sales volumes and market share.

The commission has found previously that the Australian industry set prices of HSS with reference to the prices of imports. In its application, Austube Mills claims that it continues to set prices based on a model that is greatly influenced by import prices from the subject countries. It appears reasonable to me that, as the Australian industry set prices with reference to import prices, the Australian industry remains susceptible to price injury from lower priced imports. Furthermore, ABF import data indicates that the volume of imports from the subject countries maintain a material share of the Australian market.

Should the measures expire it appears reasonable to conclude that exporters from the subject countries would obtain a price advantage over the Australian industry, incentivising them to increase volume and market share if the anti-dumping measures expire. Such a price advantage may result in reduced sales volumes and market share to the Australian industry, and or price injury as the Australian industry seeks to compete with lower priced imports. Volume and price injury would in turn likely be detrimental to other economic factors such as profit and profitability and revenue.

## **8. Conclusion**

I am satisfied that, in accordance with section 269ZHD(2)(b), having regard to:

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<sup>10</sup> Two exporters from the ROK were found to not be dumping during the relevant review period.

<sup>11</sup> Statement of Essential Facts nos. 550 and 553, available on the Commission's website.

- both applications
- other relevant information set out in this notice

there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Based on the above findings, I have therefore decided to not reject the application.

## 9. This continuation inquiry

For the purpose of this inquiry, I will examine the period from 1 July 2020 to 30 June 2021 (the inquiry period) to determine whether dumping and subsidisation has occurred and whether the variable factors relevant to the determination of duty have changed.

Following my inquiry, I will recommend to the Minister whether the dumping duty and countervailing duty notice should:

- (i) remain unaltered or
- (ii) cease to apply to a particular exporter or to a particular kind of goods or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained or
- (iv) expire on the specified expiry day.

## 10. Exporter questionnaires

### 10.1 China

#### Selected exporter questionnaire

I propose to make findings, with respect to the dumping duty notice for exports of the goods from China, on the basis of the information obtained from an examination of a selected number of exporters.<sup>12</sup>

In this instance, I intend to select the following two exporters from China for examination in respect of the dumping duty notice (selected exporters):

- Tianjin Youfa International Co., Ltd
- Dalian Steelforce<sup>13</sup>

According to data the commission obtained from the ABF import database, the selected exporters represent approx. 96% of the volume of goods<sup>14</sup> (measured by

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<sup>12</sup> Section 269TACAA(1) states that where the number of exporters from a particular country of export in relation to an investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from a selected number of those exporters. Selected exporters either constitute a statistically valid sample of those exporters or are responsible for the largest volume of exports to Australia that can be reasonably be examined.

<sup>13</sup> In relation to the countervailing duty notice for exports of the goods from China (except for exports by Dalian Steelforce and Huludao City Steel Pipe), I intend to examine all exporters.

<sup>14</sup> Subject to the anti-dumping measures exported from China.

quantity reported in tonnes) exported to Australia from China during the inquiry period.

The commission will contact the selected exporters directly and invite them to complete an exporter questionnaire with a number of sections relevant to the dumping duty notice ('selected exporter questionnaire').

If an exporter other than two selected exporters wishes to complete the selected exporter questionnaire, it is available on the commission's website.

If an exporter that is not a selected exporter submits the selected exporter questionnaire, the inquiry must extend to that exporter unless to do so would prevent the timely completion of the inquiry.

#### Non-selected exporter questionnaire

All other exporters of the goods from China (other than the selected exporters) are requested to complete the 'non-selected exporter questionnaire'. This includes information relevant to the receipt of countervailable subsidies (noting that my intention to sample only applies to the dumping duty notice and does not apply to the countervailing duty notice). The non-selected exporter questionnaire also requests certain information relevant to whether the anti-dumping measures should expire or continue. The non-selected exporter questionnaire is available on the commission's website.

By completing the non-selected exporter questionnaire, exporters of the goods (other than selected exporters) will be regarded as 'residual exporters' for the purposes of the dumping duty notice for this inquiry, if their exports are not examined as part of the inquiry and they are not an uncooperative exporter in relation to the inquiry. In making assessments in relation to the variable factors relevant to the dumping duty notice for residual exporters, the Commission will not calculate:

- export prices that are less than the weighted average of export prices for cooperative exporters
- normal values that exceed the weighted average of normal values for cooperative exporters.

Important note: For the purpose of this inquiry, a selected exporter who does not complete the selected exporter questionnaire or any other exporter from China who does not complete the non-selected exporter questionnaire, may be considered as an uncooperative exporter and a non-cooperating entity. Assessments in relation to the variable factors for uncooperative exporters and non-cooperative entities will be based on all relevant information.

Responses to the selected exporter questionnaire and the non-selected exporter questionnaire are due by **29 October 2021**.

#### *10.2 The ROK, Malaysia and Taiwan*

In relation to the dumping duty notice for exports of the goods from the ROK, Malaysia and Taiwan, the commission will examine all exporters. Important note: For the purpose of this inquiry, any exporter from the ROK, Malaysia or Taiwan who does not cooperate by providing a completed exporter questionnaire response may be considered as an uncooperative exporter. Assessments in relation to the variable factors for uncooperative exporters will be based on all relevant information.

The exporter questionnaire for exporters from the ROK, Malaysia and Taiwan is available on the commission's website.

Responses to the exporter questionnaires are due by **29 October 2021**.

### 11. Proposed model control code structure

The commission undertakes model matching using a model control code (MCC) structure to identify key characteristics that will be used to compare the goods exported to Australia and the like goods sold domestically in the country of export.<sup>15</sup>

Table 3 outlines the commission's proposed MCC structure for this inquiry.

Proposals to modify the proposed MCC structure should be raised as soon as is practicable in a submission to the inquiry (refer to section 13 of this notice), but no later than **29 October 2021**.

Any changes to the MCC structure will be considered by the commission and reported in verification reports or in the statement of essential facts (SEF).

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

<sup>15</sup> Guidance on the commission's approach to model matching is in the Dumping and Subsidy Manual, available at [www.adcommission.gov.au](http://www.adcommission.gov.au) **Table 3. Proposed MCC**

## 12. Public record

I must maintain a public record for this inquiry. The electronic public record (EPR) hosted on the commission's website ([www.adcommission.gov.au](http://www.adcommission.gov.au)) contains, among other things, a copy of all non-confidential submissions from interested parties. Documents hosted on the EPR can be provided upon request to interested parties.

## 13. Submissions

Interested parties, as defined in section 269T(1), are invited to lodge written submissions concerning the inquiry, no later than **29 October 2021**, being 37 days after publication of this notice. The commission's preference is to receive submissions by email to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)

Submissions may also be addressed to:

The Director, Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

or faxed to +61 3 8539 2499.

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received after the date indicated above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "OFFICIAL: Sensitive". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

## 14. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister for Industry, Science and Technology (Minister) within the legislative timeframe. I will place the SEF on the public record on or before **10 January 2022**, or by such later date as I may allow in accordance with section 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Minister for this inquiry.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in

response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

#### **15. Report to the Minister**

I will make a recommendation to the Minister in a report on or before **24 February 2022**, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with section 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

#### **16. The commission contact**

Enquiries about this notice may be directed to the case manager on telephone number +61 2 6276 1404 or [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)

Dr Bradley Armstrong PSM  
Commissioner  
Anti-Dumping Commission

22 September 2021