

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

Exemption inquiry EX0079 – response requested by 18 August 2020.

1 Introduction

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

Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act provide discretion for the Minister for Industry, Science and Technology (the Minister) to exempt goods from anti-dumping measures, where they are satisfied that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

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

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

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

2 Current anti-dumping measures

China, Korea, Malaysia and Taiwan

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*. All exporters of HSS from China, Korea, Malaysia and Taiwan are subject to the dumping duty notice, with exporters of HSS from China also subject to the countervailing duty notice.

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

Sizes of the goods are, for circular products, those exceeding 21 millimetres (mm) up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3 mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6 mm and air heater tubes to Australian Standard (AS) 2556.

The following categories of HSS are excluded from the goods:

- conveyor tube made for high speed idler rolls on conveyor systems with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface) and out of round standards (i.e. ovality) which do not

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exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation;

- precision RHS with a nominal thickness of less than 1.6 mm; and
- air heater tubes to AS 2556.

Thailand

The anti-dumping measures were initially imposed by public notice on 19 August 2015 by the then Parliamentary Secretary to the Minister for Industry and Science following consideration of *Anti-Dumping Commission Report No. 254*. All exporters of HSS from Thailand are subject to the dumping duty notice.

With respect to the goods export from Thailand, the goods subject to the anti-dumping measures are:

Certain electric resistance welded pipe and tube made of steel, comprising circular and non-circular 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.

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 950.0 mm. CHS with other than plain ends (such as threaded, swaged and shouldered) are also included within the goods coverage.

The following categories of HSS are excluded from the goods:

- conveyor tube made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1mm on outer surface and 0.25mm on inner surface) and out of round standards (i.e. ovality) which do not exceed 0.6mm in order to maintain vibration free rotation and minimum wind noise during operation;
- precision RHS with a nominal thickness of less than 1.6mm (i.e. not used in structural applications); and
- stainless steel CHS and RHS sections.

The goods include all electric resistance welded pipe and tube made of steel meeting the above description of the goods (and exclusions), regardless of whether or not the pipe or tube meets a specific structural standard or is used in structural applications.

Exempted goods

As a result of *Ministerial Exemption Instrument No 1* of 2016¹, certain HSS is exempt from the anti-dumping measures as a result of a Tariff Concession Order (TCO)² granted in respect of:

Tubes, square or rectangular, electric resistance welded, complying with Australian / New Zealand Standard 1163:2009, Grade C350L0 or C450L0, with a perimeter not less than 1050 mm and having either:

- a) silicon content plus 2.5 times the phosphorus content NOT greater than 0.09%;
- b) silicon content greater than 0.14% and NOT greater than 0.24%.

¹ ADN No. 2016/116 - EPR EX0044 - Document No. 9.

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

3 Application for Exemption from Measures

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

4 Exemption Provisions

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

Section 8(7)(a)

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

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;

Section 10(8)(a)

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

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;

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

5 The Goods Subject to this Exemption Application

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

Electrical Resistance Welded Hot-dip Galvanised Shouldered Pipe produced in accordance with American Petroleum Institute Standard Specification 5L. The steel grade for the pipe and the shoulder rings that are welded to both ends of the pipe is API 5L Grade B PSL1. A full penetration fillet weld secures the rings to the ends of the pipe. Following welding, the full length of shouldered pipe is hot-dip galvanised to a minimum zinc coating thickness of 300 g/m².

The exemption goods are also specified according to the following dimensions:

- Outer diameter (mm): 165.1
 - ends tolerance (mm): -0.4, +1.6
 - Wall thickness (mm): 2.5 ± 0.32
- Ring and shoulder:
 - Nominal ring thickness (mm): 4.8 ± 0.15
 - Shoulder outside diameter (mm): 174.5 ± 0.8
 - Ring length (mm): 17.5 ± 0.4
 - Maximum out of square (mm): 1.0
- Length not less than 6,000 mm and not greater than 6,500 mm with a tolerance of -50 mm, +20 mm.

The exemption goods are generally classified to the tariff classification 7306.30.00, "Other, welded, of circular cross-section, of iron or non-alloy steel".

Goods produced in Australia

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

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

The applicant has identified your company as a producer of HSS.

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

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

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

Due date for the response

We request that you complete your response and return it to the Commission by **18 August 2020**.

Please email your response to investigations1@adcommission.gov.au

Verification of the information that you supply

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

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

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

Confidential and non-confidential submissions

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

Please ensure that each page of information you provide is clearly marked either: "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD".

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the public record.

Outline of information required by the response

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

Response to Exemption Application

PART A – Company Information

A.1 Please provide the following company contact information:

Name:	██████████
Position in company:	Manager – Trade Measures
Address:	121 Evans Rd, Salisbury QLD 4107
Telephone:	██████████
Facsimile number:	
E-mail address of contact person:	██████████

PART B – Response to Exemption Application

B.1

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

- Oppose
 Not oppose

NOTE: If your company does not oppose the request for an exemption, you do not need to complete all parts of the questionnaire. Please indicate that you do not oppose the request (stating the reasons why), answer the questions that are relevant to your reasons for not opposing the request, sign and return the form as soon as possible.

PART C – Identical Goods

C.1

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

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

- Yes
 No

C.2

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

Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods in the same detail as set out in the description of

the goods (section 5), please provide additional information that indicates that identical goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature respecting the identical goods you have produced and sold.

C.3

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

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

PART D – Like or Directly Competitive Goods

D.1

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

No – [REDACTED]

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

The Commission may also consider;

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

D.2

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

Characteristics	Description

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

D.3

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

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

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

E.1

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

Yes

No

E.2

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

The product is steel pipe with the following properties and dimensions:

- 150 millimeter (“mm”) Nominal Bore (“NB”), with nominal outer diameter of 165.1mm at 3.0mm wall thickness.
- AS1074 and/or AS/NZS 1163 compliant – in steel grades C250 and C350.
- The product is then shouldered with a welded ring and hot-dip galvanized.

When the dimensional tolerances are applied to the exemption goods, they become the same as the above product.

E.3

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

Orrcon [REDACTED].
Since then, there has [REDACTED] supply of
the product. Based on the end-use of the product, Orrcon [REDACTED]
for the goods subject to the exemption application.

Orrcon have a number of [REDACTED].
This capability, combined with Orrcons supply of tubular pipe [REDACTED],
[REDACTED] for the goods subject to the exemption application.

Ultimately, [REDACTED] dependant on the industry and requirements of the end-customer.

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

Please refer to Confidential Attachment 5 which includes an invoice, test certificate and delivery docket as proof of production and sale of the goods.

Orrcon sells 150NB XL pipe into the following market sectors:

- Mining;
- Fire Protection;
- Engineering construction; and

- Agriculture.

Further, in [REDACTED] Orrcon Steel quoted, supplied and sold a parcel of shouldered pipe to [REDACTED]. This activity demonstrated the existing capability for local supply to fabricate and galvanise pipe. A number of subsequent opportunities were pursued through to [REDACTED]. These were [REDACTED].

Please refer to Confidential Attachment 6 which includes documents relating to the sale.

E.4

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

Please refer to Confidential Attachment 1 for a copy of Orrcon's general Terms and Conditions of sale.

The goods would be certified to AS1074 and/or AS/NZS 1163 in grades C250 and C350.

PART F – Additional Comments

F.1

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

Please refer to Confidential Attachments 2, 3 and 4. [REDACTED] for the goods subject to this exemption application. During [REDACTED]

[REDACTED]. Specifically, the product definition was [REDACTED] all domestically manufactured sizes and thicknesses. Orrcon is therefore [REDACTED].

Orrcon is concerned that [REDACTED].

Based on assessment of and intelligence in the market, Orrcon is of the belief that the goods subject to the exemption application are intended for use in [REDACTED]. In this scenario, the goods appear to be inadequate for the required use:

- The product is rated as only PSL1 [REDACTED];
- The size at 165.1 x 3mm has a diameter to thickness ratio of 55, which is [REDACTED];
- It is galvanized which makes it [REDACTED];
- The Grade B and PSL1 specification does not require finished pipe to be heat-treated which [REDACTED]; and
- The size and quality specification of the product appears to have been [REDACTED].

Orrcon is [REDACTED]

More broadly, Orrcon is concerned by the basis upon which an exemption should be granted for the following reasons:

1. The size specified in the exemption application is a standard Australian domestic pipe size for both pressure (AS1074) and structural (AS/NZS 1163) applications. There is [REDACTED].
2. The pipe size specified in the application is not a standard API 5L pipe size. As a non-standard API 5L pipe size it is therefore outside the scope of API 5L. Therefore by definition of the goods, there is no guarantee or feasible way for Border Force to assess whether incoming goods comply to this specification and API 5L and/or have been manufactured by an API certified mill.
3. During the hot-dip galvanizing process, all evidence of product marking is removed which removes traceable details of the API 5L mill. It will therefore be close to impossible for Border Force to determine whether the imported goods actually and wholly comply with the specifications outlined in the exemption. Border Force have previously noted issues with API 5L line pipe and has clearly made the distinction that hot dip galvanizing is entirely inconsistent with line pipe pressure applications, refer page 7 - Coatings: [Tariff Classification Guide on Line Pipe of a Kind Used for Oil or Gas Pipelines](#).

Ultimately, the basis for the applicant seeking an exemption [REDACTED]

[REDACTED] . Granting an exemption on this basis [REDACTED]

[REDACTED] of existing measures.

PART G – Declaration

I hereby declare that Orrcon Manufacturing Pty Ltd has completed the attached response to application for exemption and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

Name : [REDACTED]

Signature :

Position in Company : **Manager – Trade Measures**

Date : **August 18, 2020**