

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

Exemption inquiry EX0080 – response requested by 27 April 2021.

## 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

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 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.

### **Exempted goods**

As a result of *Ministerial Exemption Instrument No 1* of 2016<sup>1</sup>, certain HSS is exempt from the anti-dumping measures as a result of a Tariff Concession Order (TCO)<sup>2</sup> 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%.

## **3 Application for Exemption from Measures**

An application for an exemption has been made to the Commission by Unecom Australia 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.

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

<sup>2</sup> Available on the Australian Border Force website at [www.abf.gov.au](http://www.abf.gov.au)

## 5 The Goods Subject to this Exemption Application

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

Steel conduit which has been subject to hot dip galvanising (HDG) to prevent the goods from being subject to rusting. The goods are compliant with Australian Standard / New Zealand Standard (AS/NZS) 4680:2006 which requires the coating to be of a certain thickness.

The goods are imported with both ends being threaded and a coupling attached to one end to allow the conduit to be constructed to lengths required within predominately the mining and industrial industry.

The goods comply with the standard AS/NZS 2053.7 which provides the standard for conduit systems for cable management however this standard is being phased out but is currently still applicable.

The goods are supplied in the following configurations (outer diameter / thickness / length):

- 25 x 1.8 x 4000 mm
- 32 x 1.8 x 4000 mm
- 40 x 1.8 x 4000 mm
- 50 x 2.0 x 4000 mm<sup>3</sup>

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 Commission 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.

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<sup>3</sup> The applicant also described goods of size 20 x 1.6 x 4000 mm. As this size is not subject to anti-dumping measures, these goods will not be examined during the course of this inquiry.

**Due date for the response**

We request that you complete your response and return it to the Commission by **27 April 2021**.

Please email your response to [investigations1@adcommission.gov.au](mailto: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:

“SENSITIVE: Official” 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**

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

## Response to Exemption Application

### PART A – Company Information

A.1 Please provide the following company contact information:

Name:	Alan Gibbs
Position in company:	International Trade Affairs Manager
Address:	Five Islands Road port Kembla NSW 2528
Telephone:	0419 427730
Facsimile number:	n/a
E-mail address of contact person:	Alan.gibbs@bluescopesteel.com

### 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.

BlueScope steel company ORRCON produce all the pipe sizes per this TCO application. Orrcon do have a threading machine that can undertake the tube end threading, however the current supply chain of Australian made Conduit tube is Orrcon supplying the conduit tube to Williams Mining <http://www.williamsmining.com.au/index.html> who then thread both ends of conduit tube and supply this threaded tube and required threaded couplings to the Australian market.

Copies of production records and invoices (to Williams Mining) of Conduit tube are included as Confidential Attachments to this response.

### 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.

See attachments provided in C2 and <http://www.williamsmining.com.au/index.html> for details of the Conduit tube available to the Australian market – threaded and with couplings attached.

## 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?

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

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- 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.

<b>Characteristics</b>	<b>Description</b>

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.

### **E.3**

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

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.

### **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.

## **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.

**PART G – Declaration**

I hereby declare that..BlueScope steel / Orrcon steel 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**            **Alan Gibbs**

**Signature**        

**Position in Company**    **International Trade Affairs manager**

**Date**                **27/04/2021**