

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

Exemption inquiry EX0093 – response requested by 12 August 2022

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 and Science (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. Interim dumping duties apply to all exporters of HSS from People’s Republic of China (China), Malaysia and Taiwan. Interim dumping duties apply to all exporters of HSS from the Republic of Korea except Kukje Steel Co Ltd and Hi-Steel Co., Ltd. Interim countervailing duties apply to all exporters from China, except Dalian Steelforce Hi-Tech Co. Ltd, Huludao City Steel Pipe Industrial Co. Ltd and Qingdao Xianxing Steel Pipe Co. Ltd. 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 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.

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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, certain HSS is exempt from the anti-dumping measures as a result of a Tariff Concession Order (TCO) 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%.

As a result of Ministerial Exemption Instrument No 3 of 2021, certain HSS is exempt from anti-dumping measures pursuant to sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act:

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.

3 Application for Exemption from Measures

An application for an exemption has been made to the commission by Kasia Nominees Pty Ltd trading as DE Engineers (DE Engineers). The commission has 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) is met, or to exempt goods from countervailing duties if one of the criteria in section 10(8) is met. The relevant parts of sections 8(7) and 10(8) for current purposes are set out below.

Section 8(7)

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)

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 described by the applicant as:

Electric resistance welded pipe made of carbon steel, comprising circular and hollow sections normally referred to as CHS (circular hollow sections), RHS (square or rectangular) and trapezoidal hollow sections comprising ALL of the following:

- a) an air-blown hot-dipped galvanised finish;*
- b) a zinc coating mass of 200-300g/m².*

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 hollow structural sections. 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 Industry and Science.

Specifically, the information provided by Australian hollow structural sections 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 **12 August 2022**.

Please email your response to investigations@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

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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

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:	████████
Address:	121 Evans Road, SALISBURY, QLD, 4107
Telephone:	████████
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.

B.2

Please state the reasons why you do not oppose the request for an exemption to the goods.

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?

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 description of the goods which are the subject of this exemption inquiry as described by the applicant is extremely broad and in effect covers all pipe and tube products that are domestically manufactured by Orrcon Manufacturing Pty Ltd.

The domestic manufactured range of CHS, RHS and non-RHS, include the following product brands:

- [ULTRASPEC-GAL®](#) and [MECSPEC-GAL®](#) coated pipe and tube are an identical range of products with a Z275 hot dip galvanized (**HDG**) coating, i.e. a total coating mass of 275 g/m².
- [ALLGAL® coated](#) and [SMARTCOTE® painted](#) tubular range of are like or directly competitive goods.
- Refer Non-Confidential *Attachment 1 - Product Catalogue - Manufactured Range Extract*

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.

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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
Australian Standards	AS/NZS 1163 and AS1450
Electric resistance welded pipe made of carbon steel	ERW (Electric Resistance Welded) process
CHS (circular hollow sections)	CHS (circular hollow sections)
RHS (square or rectangular)	RHS (square or rectangular)
Trapezoidal hollow sections	Silo Tube and or special sections
Hot-dipped galvanised finish	Hot dipped zinc coated to AS 1397
Zinc coating mass	MECSPEC-GAL® and ULTRASPEC-GAL® are pre-galvanized pipe and tube range manufactured to AS/NZS 1163 from AS 1397 Z275 steel coil. ALLGAL® is an electro-galvanized pipe and tube range manufactured to AS/NZS 1163 and AS4750 ZE50/50.
Able to be manipulated – bent and shaped	Yes
Able to be directly welded	Yes

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 is provided outlining various brochures that cover the domestic manufactured range of CHS, RHS and non-RHS along with specific product data sheets:

- [MECSPEC-GAL® Data Sheet](#)
- [MECSPEC-GAL® Tube Flyer](#)
- [MECSPEC-GAL® Pipe Flyer](#)
- [ULTRASPEC-GAL® Data Sheet](#)
- [Trapezoidal – Silo Section internet page](#)
- [Fit for Purpose Solution for the Environment](#)

Products are available to all purchasers on equal terms and under like conditions, as evidenced by publicly available terms and conditions of sale and credit application:

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- [Terms and Conditions of Sale](#)
- [Credit Application](#)

Recent production records are provided for both HSS and Precision product range:

- *Confidential Attachment 2 - HSS - Production Records – Trapezoidal*
- *Confidential Attachment 3 - HSS - ULTRASPEC-GAL and Trapezoidal Work Orders*
- *Confidential Attachment 4 - Precision - MECSPEC Work Orders*

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.

The description of the goods subject to anti-dumping measures are as per below. The final sentence establishes that hot-dipped galvanised (HDG) is a finish type included as HSS goods.

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).

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Finish types for the goods include inline galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

The rationale to include the HDG finish type is to provide a complete description of all the HSS zinc-coated finish-types that are available for consideration for engineering design: pre-galvanized, non-galvanized and post-production batch HDG. The utility of these finish types are covered in any number of manufacturers guides and data sheets.

The finish type selected by an engineer is a fit-for-purpose consideration, one that accounts for the cost of a solution and its durability, but also a range of other factors. These considerations are many and would typically take into account the following:

- the design life of a structure;
- its service conditions, the location and associated environmental corrosivity (i.e., macro-climate and atmospheric corrosivity, temperature, humidity, condensation and salinity);
- specific and micro-climatic conditions (e.g., exposure to chemicals, condensation and ground contact);
- design and detailing (e.g., pooling of water, and dissimilar metals);
- workmanship (e.g., jointing and connections); and
- maintenance and inspection (e.g., remove of corrosive deposits by cleaning, testing of components for proper function and replacement of components of short design life).

The applicant in their submission identifies the ability to weld as an important consideration and hence the reason why each zinc coated finish type has been deemed fit-for-purpose for use as like or directly competitive products at different points in time, be this for economic or other design considerations. The applicant includes a series of photos which Orrcon assumes were collected from their own and their competitors in-field silo installations (refer *Confidential Attachment 5 – Email communication*). It is established therefore by the applicant through the inclusion of these photos that silo manufacturers have made the choice over a period of at least the last 15 years to use either: HDG, DURAGAL® or ALLGAL® at various points in time as like or directly competitive products in which to manufacture and supply silos.

The below images (picture 4 and 5) from the applicant's submission identifies red-rust corrosion occurring on both ALLGAL® and DURAGAL® products:



Picture 4. This picture shows a relatively new silo around 15 years old made from ALLGAL® with significant corrosion of the silo legs.



Picture 5. This picture is a close up of rusted Duragal® 15 year silo stand.

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There is corrosion occurring at the welded connection between the vertical post and silo section, as identified in blue and red. It should be understood that the welding process vaporizes the zinc coating in the region of the weld zone, so these photos only provide evidence of inadequate repair or maintenance to the heat affected weld zone. This region is readily accessible, and a low-cost repair method such as a wire brush and cold-galvanized spray would provide satisfactory ongoing protection of these welded connections. This situation would apply to all finish types.

In picture's 4 & 5, above there is no evidence of corrosion on the base ring as the silos in question are physically located on top of a concrete base. In contrast, the silos installed directly on top of soil (picture's 3 & 7 below) exhibit the complete loss of the zinc coating and the onset of red rust. This highlights the impact of service conditions and the choice that can be made to mitigate the effect of corrosion by placing the silo on a concrete pad.

Further, the installation of a silo directly on the ground does not comply with the Owners Responsibilities as outlined in *Attachment 6 – DE Engineers Silo Operation Manual*. The extract from this operational manual below further states that the failure to adhere to instructions will void the warranty. So while the applicant may make claims of premature corrosion in this instance, the fact that the silo was installed directly on the ground clearly voids their own warranty.



Picture 3. This picture shows an older silo made from ALLGAL® square tube with the zinc coating completely gone on the base ring and substantial corrosion on the legs compared to pipe frame silos.



Picture 7. This picture is a close up of rusted Duragal® silo stand.

3. Owners Responsibilities

It is the responsibility of the owner to ensure this silo is set up correctly. Many problems result from incorrect preparation of the silo base pad. Silos have been mounted on plough discs, sleepers, poor quality concrete, un-reinforced concrete or even directly on the ground. The results of incorrect mounting have sometimes been total collapse of the silo.

Elevated silos are a fully stressed structure, engineered to support grain in a vertical plane with pressure exerted and distributed evenly around the base support frame. A pad that is not level will transfer the weight of the grain to the low side of the silo and place excessive stresses on the lower sheets of the silo. An uneven pad will also increase the pressure in one area, twisting the base frame deforming the silo. The effects may not be seen for some time, probably not until extra stress is placed on the silo wall when out loading product with a higher bulk density. This localised force may burst seams or compressed lower sheets causing the silo to tilt and possibly collapse. Check with your silo manufacturer if you are planning to store a commodity heavier than usual.

Elevated Silo Pad

The most important step in establishing a silo is to construct a good quality pad. The site selected for erection of the silos should be a stable, level site with no chance of erosion from water run off. Care must be taken in sitting the silo to avoid soft and expanding soils. Consult the local shire engineer for advice on the strength of the subsoil at the site. For establishment on a difficult site the farmer should engage the services of a consulting engineer.

Site preparation

Clear vegetation from an area 1 m (3 ft) larger than the pad, grade it 100 mm (4") below ground level to provide a level area for the slab and adequate drainage away from the pad edges. A layer 30 - 50 mm (1 1/2 - 2") deep of good draining material (sand or blue metal dust) should be placed on the base and compacted by watering and rolling. Alternatively in a clay area place a plastic ground sheet on the compacted soil to help prevent drying and cracking of the subsoil and pad. Construct the concrete pad exactly to manufacturer's instructions. Failure to adhere to instructions will void the warranty.

Extract from Attachment 6 – DE Engineers Silo Operation Manual.

There is a significant amount of information made available by Orrcon Steel in the public domain for manufacturers and end-users of HSS products to make fit-for-purpose decisions around the type of finish that can be used for HSS. Confidential Attachment 5 – Email communication further details the acceptance of MECSPEC-GAL by the applicant as a suitable alternative. Orrcon Steel has made public a range of information, including product guides and flyers concerning fit-for-purpose durability considerations in regard to the range of its products: ALLGAL®, ULTRASPEC-GAL® and MECSPEC-GAL®.

The applicant in their application details photographic evidence to support the use of various finish types of HSS in silo applications as like or directly competitive products over at least a 15-year period. The fact that a different outcome is achieved in terms durability should entirely be within the consideration of the applicant in their design process and the offer to their customer. This is clearly established based on the owner's responsibilities that are detailed in the operation manual.

The description of the goods in the application covers all HSS sections, yet the basis of the applicant's approach to Orrcon Manufacturing Pty Ltd related to only HDG CHS. It is not clear why or on what basis the applicant included in their definition of the goods the additional sections of RHS and non-RHS (trapezoidal) sections.

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It has also been established by a number of government bodies, State Authorities and councils that for steel post applications similar to the silo post application that pre-galvanized tubular (CHS) steel to AS/NZS 4792 ZB135/135 is equivalent and a like or directly substitutional for tubular products manufactured to AS1074 or AS/NZS 1163 or AS1450 with an AS/NZS 4680 HDG zinc coating.

Tubular Steel Posts, Rails and Stays

Steel posts shall be manufactured from steel complying with one of AS 1074, AS/NZS 1163, AS 1397 or AS 1450, and having a minimum yield strength of 195 MPa. The dimensions of tubular steel shall be in accordance with the requirements for medium tubes to AS 1074.

Steel posts shall be either:

- hot dipped galvanised in accordance with AS/NZS 4680; or
- pre-galvanised prior to forming in accordance with Z275 coating class to AS 1397 (total minimum coating mass on both surfaces of 275 g/m²). The finished tube must be equivalent to AS/NZS 4792 ZB135/135. The weld seam made during forming of pre-galvanised steel post sections shall be repaired in accordance with AS/NZS 4792, Section 3, by applying a coating using a metal spraying system employing a suitable zinc or zinc-alloy wire/powder.

All steel shall be free from distortion, with the galvanizing intact, and protected from damage at pipe connections.

Posts shall be either adapted before galvanizing, or modified and protected after galvanizing, to provide means for attaching the fencing to the posts in a manner that will not damage the posts or fencing material, and shall be fitted with watertight galvanized steel tops.

Any damage to the galvanized coating of tubular steel posts, rails and stays and other galvanized products specified in this section shall be repaired using an organic zinc-rich primer complying with AS 3750.9.

Extract from VicRoads Standard documents – SECTION 707 - FENCING

Finally, Orrcon refers to the applicant's statement below (page 4, paragraph 7) of the application. The applicant makes the claim that BlueScope is a part owner of a tube mill in China that manufactures and supplies HDGP to the Australian market. This claim is false, and Orrcon requests that the Commission revert to the applicant and query why this statement was made.

mostly from BlueScope. It is DE Engineers' understanding that BlueScope part owns a steel mill in China that exports to Australia and supplies a major percentage of HDGP 200-300g/m² to Australian steel manufacturers for distribution to the Australian market. DE Engineers also imports HDGP from China with other Australian suppliers of pipe importing from Pakistan, India, Korea and Vietnam.

PART G – Declaration

I hereby declare that **ORRCON MANUFACTURING PTY LTD** (company) 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
Company : [REDACTED]

Date : **12th August 2022**