



---

# **ANTI-DUMPING NOTICE NO. 2016/113**

*Customs Act 1901 – Part XVB*

## **Certain Hollow Structural Sections**

**Exported from the People’s Republic of China,  
the Republic of Korea, Malaysia and Taiwan**

### **Initiation of a continuation inquiry into anti-dumping measures**

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

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice in respect of certain hollow structural sections (the goods) exported from the People’s Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan, and a countervailing duty notice in respect of the goods exported from China, is justified.

The anti-dumping measures are due to expire on 2 July 2017.<sup>1</sup>

#### **1. The goods**

The goods subject to the anti-dumping measures and therefore 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. 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.

---

<sup>1</sup> On and from 3 July 2017, if not continued, the anti-dumping measures would no longer apply.

## 1.1 Tariff classification of the goods

The goods are currently classified to the following tariff subheading of Schedule 3 to the *Customs Tariff Act 1995*:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37)
- 7306.61.00 (statistical codes 21, 22 and 25)
- 7306.61.00 (statistical code 90)<sup>2</sup>
- 7306.69.00 (statistical code 10)
- 7306.50.00 (statistical code 45)<sup>3</sup>

The goods are subject to the Customs duty indicated below:

China	Korea	Malaysia	Taiwan
From 20 December 2015: 4% From 1 January 2016: 3%	From 12 December 2014: 4% From 1 January 2015: 3% From 1 January 2016: 2%	Free	5%

## 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 anti-dumping measures currently apply as follows:

- the dumping duty notice applies to all exporters of certain HSS from China, Korea, Malaysia and Taiwan; and
- the countervailing duty notice applies to all exporters of certain HSS from China except Dalian Steelforce Hi-Tech Co. Ltd. (Dalian), Huludao City Steel Pipe Industrial Co. Ltd. and Qingdao Xianxing Steel Pipe Co. Ltd.

A background to key cases<sup>4</sup> in relation to the goods is summarised in Table 1 below.

Case type and no.	ADN <sup>5</sup> No.	Date	Country of export	Findings
Investigation REP 177	2012/31	3 July 2012	China, Korea, Malaysia and Taiwan	Dumping and countervailing duties imposed

<sup>2</sup> These tariff subheadings only apply to: Dalian Steelforce Hi-Tech Co. Ltd. (China); Tianjin Friend Steel Pipe Co. Ltd. (China); Tianjin Ruitong Iron and Steel Co. Ltd. (China); Roswell S A R Limited (China); and Alpine Pipe Manufacturing SDN BHD (Malaysia).

<sup>3</sup> *ibid.*

<sup>4</sup> Reports and documents relating to these cases are available on the Commission's public record at [www.adcommission.gov.au](http://www.adcommission.gov.au)

<sup>5</sup> Anti-Dumping Notices are available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au)

Case type and no.	ADN <sup>5</sup> No.	Date	Country of export	Findings
Reinvestigation REP 203	2013/35	13 May 2013	China, Korea, Malaysia and Taiwan	REP 177 affirmed with variation to dumping duty applicable to Dalian Steelforce Hi-Tech Co. Ltd. (China)
Exemption EX 0017	2014/51	17 June 2014	China, Korea, Malaysia and Taiwan	Exemption granted
Federal Court decision	2016/09	17 February 2016	China	Revised dumping duty applicable to Dalian Countervailing duty notice not applicable to Dalian
Anti-circumvention REP 291	2016/24	18 March 2016	China, Korea and Malaysia	Original notices amended to expand tariff classifications covered by the notices
Exemption EX0043	2016/52	16 May 2016	China, Korea, Malaysia and Taiwan	Exemption not granted

**Table 1: Summary of cases undertaken in relation to the goods**

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

On 8 August 2016, a notice<sup>6</sup> was published on the Anti-Dumping Commission (the Commission) website [www.adcommission.gov.au](http://www.adcommission.gov.au) inviting certain persons to apply for the continuation of the anti-dumping measures regarding the goods exported to Australia from China, Korea, Malaysia and Taiwan, in accordance with subsection 269ZHB(1) of the *Customs Act 1901* (the Act).<sup>7</sup>

On 5 October 2016, applications were received from Austube Mills Pty Ltd (Austube) and Orrcon Manufacturing Pty Ltd (Orrcon) (the applicants). The applicants have claimed that:

- anti-dumping measures exist in other jurisdictions in relation to HSS exports from China, Korea and Taiwan;
- exports have continued from the named countries since measures were imposed;
- excess capacity exists for manufacturers/exporters in the named countries;
- a 'market situation' continues to affect domestic selling prices of like goods in the Chinese domestic market, such that domestic sales are not suitable for determining normal values under subsection 269TAC(1);
- exports from named countries would continue to be dumped if the current measures expire to meet global market dumped prices; and
- if the current measures expire, material injury to the Australian industry would recur.

<sup>6</sup> ADN No. 2016/74

<sup>7</sup> Unless otherwise stated, all legislative references are to the *Customs Act 1901*.

Non-confidential versions of the applications from Austube and Orrcon are available on the Commission's public record.

### **3.1 Legislative framework**

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

Pursuant to subsections 269ZHD(1) and 269ZHD(2), I must reject an application for the continuation of anti-dumping measures if I am not satisfied that:

- the application complies with section 269ZHC (subsection 269ZHD(2)(a)); and/or
- 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 (subsection 269ZHD(2)(b)).

### **3.2 Australian industry producing like goods**

Based on the information provided in the applications and having regard to previous investigations and reviews and publically available information, I am satisfied that the applicants each represent a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures. I am therefore satisfied that the requirements of subsection 269ZHB(1)(b)(ii) have been met.

### **3.3 Compliance with section 269ZHC**

I consider that the applications comply with the requirements of section 269ZHC, in that each application is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS.

### **3.4 Assessment under subsection 269ZHD(2)(b)**

I have examined the applications, information and evidence provided with the applications and data obtained from the Australian Border Force import database to make my assessment under subsection 269ZHD(2)(b). Evidence from these sources includes evidence showing that:

- there remains a global oversupply of steel generally, particularly from China, resulting in suppliers seeking markets for steel at low prices – application at Part A, Section 1 refers;
- import volumes from China, Korea, Malaysia and Taiwan have continued since the measures were imposed in July 2012 and exporters of the goods from those countries have maintained distribution links into the Australian market since 2012;
- anti-dumping measures have been imposed on exporters of HSS from China, Korea and Taiwan by other jurisdictions, which is likely to affect the future export intentions of exporters to seek export destinations where measures do not apply – application at Table 1 refers;

- producers in China, Korea, Malaysia and Taiwan have excess capacity to increase export volumes to Australia – application at Part A, Section 6 refers;
- indicative evidence on export prices from China, Korea, Malaysia and Taiwan to New Zealand (which does not have anti-dumping measures on HSS) suggests that absent anti-dumping measures in Australia, export prices to Australia from these countries will fall – application at Part A, Section 7 refers;
- following the extension of measures to alloyed HSS from May 2015, Austube experienced an improvement in sales volumes and profits; and
- market offers for HSS imported from China, Korea, Malaysia and Taiwan during financial year 2015-16 undercut the Australian industry's selling prices.

Having regard to the above evidence, which includes the applicants' claims, I am satisfied that in accordance with subsection 269ZHD(2)(b) 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.

For the reasons discussed above, I have decided to *not reject* the applications.

#### **4. Continuation inquiry**

For the purposes of this inquiry, I will use the period from 1 July 2015 to 30 June 2016 (the inquiry period) to determine whether the anti-dumping measures relating to the goods exported from China, Korea, Malaysia and Taiwan should:

- remain unaltered; or
- cease to apply to a particular exporter or to a particular kind of goods; or
- have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- expire on the specified expiry date.

In its application Austube alleges that a particular market situation exists in the Chinese HSS market, such that the domestic selling prices of HSS in the Chinese domestic market are not suitable for establishing normal values under subsection 269TAC(1). I will examine those claims in the context of assessing normal values and to the extent that it is relevant in making other recommendations to the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary),<sup>8</sup> including consideration of the lesser duty rule for the purposes of subsections 8(5BA) and 10(3D) of the *Customs Tariff (Anti-Dumping Act) 1975* (Dumping Duty Act).<sup>9</sup>

---

<sup>8</sup> On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this decision the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

<sup>9</sup> Pursuant to subsections 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Parliamentary Secretary is not required to have regard to the lesser duty rule where certain circumstances apply.

My examination of countervailable subsidies will be limited to programs currently covered by the notice, however should further evidence be provided I may examine additional subsidy programs if to do so will not prevent the timely completion of the inquiry.

#### **4.1 Public Record**

I must maintain a public record of this inquiry. The public record must contain, among other things, a copy of all submissions from interested parties.

Documents included in the public record may be examined at [www.adcommission.gov.au](http://www.adcommission.gov.au) or at the Commission office by contacting the case manager on the details provided below.

#### **4.2 Lodgement of submissions**

Interested parties, as defined in subsection 269T(1), are invited to lodge written submissions concerning this inquiry, no later than the close of business on 7 December 2016, being 37 days after publication of this notice.

The Commission's preference is to receive submissions via *email* to [operations2@adcommission.gov.au](mailto:operations2@adcommission.gov.au).

If email submission is not possible, the following alternatives are available:

- *mail*: The Director Operations 2  
Anti-Dumping Commission  
GPO Box 1632  
MELBOURNE VIC 3001
- *fax*: +61 3 8539 2499

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Where information in a submission is confidential, or that the publication of the information would adversely affect business or commercial interests, an interested party must:

- a. 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
- b. 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 "FOR OFFICIAL USE ONLY".

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

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 statement of essential facts (SEF) on the public record.

### **4.3 Sampling of exporters**

I propose to make findings in relation to exports from China and Taiwan on the basis of information obtained from an examination of a selected number of exporters as outlined in Attachment A.

### **4.4 Statement of Essential Facts**

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Parliamentary Secretary within the legislative timeframe. The SEF will be placed on the public record by 20 February 2017,<sup>10</sup> or by such later date as the Parliamentary Secretary may allow in accordance with subsection 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Parliamentary Secretary concerning the continuation of the measures. 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 Parliamentary Secretary.

### **4.5 Report to the Parliamentary Secretary**

A recommendation to the Parliamentary Secretary will be made in a report on or before 4 April 2017 (or such later date as the Parliamentary Secretary may allow in accordance with subsection 269HI(3)).

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period, ending before the day the dumping duty notice and countervailing duty notice is due to expire, as the Parliamentary Secretary considers appropriate.

## **5. Commission contact**

Enquiries about this notice may be directed to the Case Manager on telephone number + 61 3 8539 2443 or email at [operations2@adcommission.gov.au](mailto:operations2@adcommission.gov.au)

Dale Seymour  
Commissioner  
Anti-Dumping Commission

31 October 2016

---

<sup>10</sup> The due date is 18 February 2017, which falls on a Saturday. As a result, the effective due date is the following business day, being 20 February 2017.

## ATTACHMENT A

### Application of sampling provisions to exporters from China and Taiwan

Subsection 269TACAA(1) of the Act states that where the number of exporters from a particular country of export in relation to the 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 an examination of a selected number of those exporters who:

- (c) constitute a statistically valid sample of those exporters; or
- (d) are responsible for the largest volume of exports to Australia that can reasonably be examined.

I note that there were over 30 suppliers of the goods from China and Taiwan listed in the ABF import database during the inquiry period. Given the large number of exporters, it is not practical to examine the entire population of exports. Accordingly, in relation to exports of the goods from China and Taiwan, I will carry out this inquiry on the basis of information obtained from an examination of a selected number of exporters who are responsible for the largest volume of exports to Australia that can reasonably be examined (paragraph 269TACAA(1)(d)).

### Selected exporters

In this instance, the Commission will seek to examine exports from China by:

- Dalian Steelforce Hi-Tech Co. Ltd.
- Qingdao Xiangxing Steel Pipe Co. Ltd.
- Huludao City Steel Pipe Industrial Co. Ltd.  
(supplied through Shanghai Minmetals Materials & Products Corp.)
- Tianjin Ruitong Iron & Steel Co. Ltd.

and exports from Taiwan by:

- Far East Machinery Co. Ltd.
- Shin Yang Steel Co. Ltd.
- Ursine Steel Co. Ltd.

According to data obtained from the Australian Border Force import database, these exporters (the 'selected exporters') represent more than 85 per cent of the volume of the goods from each country (measured by statistical quantity reported in tonnes) exported to Australia from China and Taiwan during the proposed inquiry period of 1 July 2015 to 30 June 2016.

The Commission will contact the selected exporters directly and invite them to complete an exporter questionnaire. Certain importers may also be contacted directly and invited to complete an importer questionnaire.



If an exporter from China or Taiwan other than a selected exporter wishes to complete an exporter questionnaire, the exporter questionnaire has also been placed on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

If an exporter questionnaire is submitted by an exporter that is not named above as a selected exporter, the inquiry must extend to that exporter unless to do so would prevent its timely completion.

The assessment of whether to examine the exports of an exporter that is not a selected exporter will be determined by:

- the level of cooperation from the selected exporters;
- the number of other exporters seeking individual examination; and
- the available resources within the Commission to undertake either on-site or remote verification.

Responses to the exporter questionnaire are due by **7 December 2016**.

#### Residual exporters, information request and associated spreadsheets

Exporters of the goods from China and Taiwan other than the selected exporters named above are requested to make themselves known to the Commission and provide a basic level of information, via an information request and associated spreadsheets. This information will assist in the inquiry and may assist me to determine which additional exporters to include as selected exporters, if necessary, for example in the event that selected exporters named above do not cooperate with the inquiry.

The information request and associated spreadsheets is available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

By completing the information request and associated spreadsheets, for the purposes of this inquiry, exporters of the goods will be regarded as 'residual exporters'.

In making assessments in relation to the variable factors for residual exporters, the Commission will not calculate:

- export prices that are less than the weighted average of export prices for cooperative exporters, excluding those export prices from selected exporters whose dumping margins were less than 2 per cent; and
- normal values that exceed the weighted average of normal values for cooperative exporters, excluding those normal values from cooperative exporters whose dumping margins were less than 2 per cent.<sup>11</sup>

The Commission will determine subsidy margins for the residual exporters having regard to the amount of countervailable subsidies received by the selected exporters.

---

<sup>11</sup> Subsection 269TACAB(3)

Responses to the information request and associated spreadsheets are due by **7 December 2016**.

Uncooperative exporters and non-cooperative entities

For the purposes of this inquiry, any exporter who does not cooperate with the inquiry by providing a completed exporter questionnaire response or by providing a response to the information request and associated spreadsheets, may be considered as an uncooperative exporter and/or a non-cooperative entity.

Assessments in relation to the variable factors for uncooperative exporters and non-cooperative entities, will be based on all relevant information.