



Australian Government
Australian Customs and
Border Protection Service

PUBLIC
FILE 83

International Trade Remedies Branch

**SECOND SUPPLEMENTARY
GOVERNMENT QUESTIONNAIRE - CHINA**

PRODUCT CONCERNED: HSS FROM THE PEOPLE'S REPUBLIC
OF CHINA, THE REPUBLIC OF KOREA,
MALAYSIA, TAIWAN AND THE KINGDOM
OF THAILAND

INVESTIGATION PERIOD: 1 JULY 2010 TO 30 JUNE 2011

RESPONSE DUE BY: 2 APRIL 2012

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Please note that a non-confidential version of the reply to this questionnaire must also be provided.

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ABBREVIATIONS

the Act	the <i>Customs Act 1901</i>
China	the People's Republic of China
Customs and Border Protection	the Australian Customs and Border Protection Service
GOC*	Government of China
the goods	the goods the subject of the application (HSS)
HSS	certain hollow structural sections
the investigation period	1 July 2010 to 30 June 2011

*Refer to this questionnaire's Glossary of Terms for a definition.

GLOSSARY OF TERMS

Throughout this questionnaire, there are certain words and terminology used that require some clarification. The following are their definitions for purposes of this investigation.

Benefit

As further defined in relation to the definition of the term 'subsidy' below, 'benefit' may include:

- a direct transfer of funds;
- the acceptance of liabilities (e.g. debts or other liabilities), whether actual or potential, of your enterprise;
- the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) that was otherwise due (e.g. reduced rate of income tax, waiving certain other taxes);
- the provision of goods or services otherwise than in the course of providing normal infrastructure; or
- the purchase of goods

by any the GOC (at any level), a public body of the GOC, or a private body entrusted by the GOC to carry out GOC functions.

Financial Contribution

There is a "financial contribution" by a government where:

(a) a government practice involves a direct transfer of funds (grants, loans, and equity infusion), potential direct transfer of funds or liabilities (e.g. loan guarantees);

(b) government revenue that is otherwise foregone or not collected (e.g. fiscal incentives such as tax credits);

(c) the government provides goods or services, other than general governmental infrastructure, or purchases goods; or

(d) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (a) to (c) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by the government.

Government of China (GOC)

For the purposes of this questionnaire, GOC refers to all levels of government, i.e., central, provincial, regional, city, special economic zone, municipal, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed.

It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

Program(s)

The term "program", as used throughout this questionnaire in reference to alleged subsidies, refers to broad categories of subsidies that Customs and Border Protection has reason to believe may be available to exporters of the goods.

In this regard, the term "program" as used in this questionnaire should not be taken to necessarily refer to formal programs maintained by the GOC, nor should it be taken to refer to one specific subsidy. Rather, "program" as used in this questionnaire can refer to informal subsidies provided by the GOC, and can also refer to multiple individual, albeit similar, subsidies.

Subsidy

In relation to goods that are exported to Australia, means:

(a) a financial contribution:

- (i) by a government of the country or export or country of origin of those goods; or
- (ii) by a public body of that country or of which government is a member; or
- (iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that is made in connection with the production, manufacture or export of those goods and that involves:

- (iv) a direct transfer of funds from that government or body to the enterprise by whom the goods are produced, manufactured or exported; or
- (v) a direct transfer of funds from that government or body to that enterprise contingent upon particular circumstances occurring; or
- (vi) the acceptance of liabilities, whether actual or potential, of that enterprise by that government body; or
- (vii) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body by that enterprise; or
- (viii) the provision by that government or body of goods or services to that enterprise otherwise than in the course of providing normal infrastructure; or

(ix) the purchase by that government or body of goods provided by that enterprise; or

(b) any form of income or price support as referred to in Article XVI of the General Agreement Tariffs and Trade 1994, that is received from such a government or body;

if that financial contribution or income or price support confers a benefit in relation to those goods.

SECTION A: BACKGROUND AND GENERAL INSTRUCTIONS

1. Background

The Australian Customs and Border Protection Service (Customs and Border Protection) has initiated:

- an investigation into allegations that certain hollow structural sections (HSS) from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia, Taiwan and the Kingdom of Thailand (Thailand) have been exported to Australia at dumped prices, and because of that dumping, material injury has been caused to an Australian industry producing like goods; and
- an investigation into allegations that countervailable subsidies have been received in respect of HSS exported from China to Australia, and because of that subsidisation, material injury has been caused to an Australian industry producing like goods.

The abovementioned dumping investigation involves allegations that there is a situation within both the domestic Chinese and Thai HSS markets that renders sales within those markets unsuitable for determining normal values under s.269TAC(1) of the *Customs Act 1901* (the Act) (i.e. that a 'particular market situation' exists in these markets).

2. Product concerned

Description

The goods the subject of the application (the goods) 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, 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 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

The application includes the following information to clarify the nature of the goods.

Finishes

All HSS regardless of finish is included in the application. Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS. Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

CHS with other than plain ends (such as threaded, swaged and shouldered) are also included in the application.

Standards

HSS is generally produced to either the British Standard BS 1387 or the Australian Standard AS 1163 or international equivalent standards (including ASTM/JIS and KS). HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals (MPa).

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

Excluded goods

The following categories are excluded from the goods subject of the application:

- 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 1.6mm (is not used in structural applications); and
- air heater tubes to AS 2556.

Tariff classification

The application stated that the goods are classified to the following tariff subheadings:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37)
- 7306.61.00 (statistical codes 21, 22 and 23)
- 7306.69.00 (statistical codes 26, 27 and 28)

Since initiation, the statistical codes related to these relevant subheadings have been altered, and the goods are now classified to the following tariff subheadings:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);

- 7306.61.00 (statistical codes 21, 22 and 25); and
- 7306.69.00 (statistical code 10).

The goods exported to Australia from Korea and Taiwan are subject to a 5% rate of duty.

For China and Malaysia the goods exported to Australia are subject to a 4% rate of duty.

The goods exported to Australia from Thailand using Thailand Free Trade Agreement are free from duty as of 1 January 2010.

There are numerous Tariff Concession Orders applicable to the relevant tariff subheadings.

3. Investigation period

The existence and amount of any subsidy and/or dumping in relation to HSS exported to Australia from China will be determined on the basis of an investigation period from 1 July 2010 to 30 June 2011 (hereinafter referred to as 'the investigation period').

In order to permit the allocation of certain types of subsidy to the investigation period, information relating to earlier periods is also requested in certain sections of this questionnaire.

Customs and Border Protection will examine details of the Australian market from 1 July 2007 for injury analysis purposes.

4. Purpose of this questionnaire

New information has been received from a cooperating Chinese HSS exporter regarding new potentially-countervailable subsidy programs.

Customs and Border Protection considers that the information provided was sufficient to warrant further investigation of the programs and to determine whether they are countervailable.

Therefore, the purpose of this questionnaire is to assist Customs and Border Protection to obtain necessary information from the Government of China (GOC) to determine whether these additional subsidy programs are countervailable and have been received by exporters of HSS.

5. Response to this questionnaire

The GOC does not have to complete the questionnaire.

However, if the GOC does not respond Customs and Border Protection may be required to rely on information supplied by other parties (possibly

information supplied by the Australian industry – the applicant for anti-dumping and countervailing measures).

Therefore, it is considered to be in the GOC's interests, and the interest of Chinese exporters of HSS, to provide a complete response.

If the GOC chooses to respond to this questionnaire, the response is due by **COB 2 April 2012**.

6. If you decide to respond

Should the GOC choose to provide a response to this questionnaire, please note the following.

Confidential and non-confidential versions

If the GOC chooses to respond to this questionnaire, you are required to lodge a confidential and a non-confidential version of your submission by the due date.

In submitting these versions, please ensure that each page of the information you provide is clearly marked either "**IN-CONFIDENCE**" or "**NON-CONFIDENTIAL**" in the header and footer.

All information provided to Customs and Border Protection in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the Public Record, which all interested parties can access.

Your non-confidential submission must contain sufficient detail to allow a reasonable understanding of the substance of the confidential version. If, for some reason, you cannot produce a non-confidential summary, contact the investigation case officer (see contact details on Page 1 of this questionnaire).

Declaration

You are required to make a declaration that the information contained in the GOC's response is complete and correct. You must return the signed declaration of an authorised GOC official at Section C of this questionnaire with the GOC's response.

Coordination of responses

In completing the questionnaire, if a question requires information from other authorities (e.g. provincial or local governments, state owned entities, etc.) please forward the questions to the correct source.

However, it is the responsibility of the GOC to ensure that a full and complete response to all sections of the questionnaire is submitted, and that responses from all levels of government, agencies and/or other applicable entities are collated and coordinated in the one response.

Provision of documents

Numerous documents are requested from the GOC throughout this questionnaire.

Further, when providing requested documents, please indicate whether the documents:

- are current/in force;
- were current/in force during the investigation period; or
- have been repealed, revised or superseded.

Where the documents have been repealed, revised or superseded, where applicable:

- indicate when this revision occurred;
- provide any notice of repeal;
- provide the revised version;
- provide the document that supersedes the requested document; and;
- indicate whether the revised version was in force during the investigation period.

Lodgement

You may lodge your response by mailing it to the address for lodgement shown on the front cover of this questionnaire.

Alternatively you are welcome to lodge your response by email. The email address for lodgement is shown on the front cover of this questionnaire. If you lodge by email you are still required to provide a confidential and a non-confidential version of your submission by the due date.

General matters

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents,¹ even where not specifically requested in this questionnaire;
- be in English (with fully translated versions of all requested and other applicable documents submitted);
- list your source(s) of information for each question; and
- show any amounts in the currency in which they were originally denominated.

¹ This includes, but is not limited to, any laws, decrees, regulations, statements of policy, or other administrative guidelines. In each case, include any legislative history as well as other descriptive materials and explanations of the criteria underlying the decisions relating to each of the programmes mentioned in this questionnaire. If applicable, a sample of each of the applications that a company must complete to participate in each of the programs should also be included.

Please note that references throughout this questionnaire to companies benefiting from a particular program should be read as including any parent and otherwise associated companies, and, if the company has been subject to merger or acquisition, any former associated companies or former parent companies.

Please note that answers such as: "Not Applicable" or an answer that only refers to an exhibit or an attachment may not be considered by Customs and Border Protection to be adequate. We therefore suggest that in answering the questions you outline the key elements of your response in the primary submission document, rather than merely pointing to supporting documents of varying degrees of relevance and reliability as your answer.

7. Clarification

If you have any difficulties in completing the questionnaire, or require clarification on any questions asked, contact the case manager as soon as possible (contact details are provided on Page 1 of this questionnaire).

8. Future questions and verification

Customs and Border Protection may seek to carry out a visit to the GOC to examine relevant records and to verify the information provided. It is common practice for Customs and Border Protection officers to visit government officials, exporters and manufacturer(s) of the subject goods in order to verify the information submitted. You will be contacted in advance of such a meeting to make arrangements as to the time and place of the verification meeting.

A complete response, including all of the documentation requested, must be submitted to Customs and Border Protection before a verification meeting will be considered.

If such a verification is undertaken, it is preferable that the key government officials involved in preparing the response and who have knowledge of the source documentation and the information contained therein be available to meet with Customs and Border Protection officers and to provide additional clarification and explanation, as required.

If verification meetings are unreasonably delayed, cancelled, or otherwise hindered by the GOC, the assessment of a particular market situation and the assessment as to the receipt and/or countervailability of subsidy programs may be based on the facts available to Customs and Border Protection.

The purpose of the verification meeting is to verify information already provided to Customs and Border Protection in your submission prior to the meeting. It is not intended to be a second opportunity for the GOC to provide new or additional information. Accordingly, your original response should be complete and accurate.

SECTION B: SUBSIDIES

INVESTIGATED PROGRAMS

The following programs will be further investigated by Customs and Border Protection:

- **Program 21:** Water Conservancy Fund Deduction;
- **Program 22:** Wuxing District Freight Assistance
- **Program 23:** Huzhou City Public Listing Grant
- **Program 24:** Huzhou City Freight Assistance
- **Program 25:** Wuxing District Patent Fee Assistance
- **Program 26:** Zhejiang Industry New Product or Technology Award
- **Program 27:** Huzhou City Quality Award
- **Program 28:** Huzhou Industry Enterprise Transformation & Upgrade Development Fund
- **Program 29:** Land Use Tax Deduction
- **Program 30:** Wuxing District Public List Grant
- **Program 31:** Anti-dumping Respondent Assistance
- **Program 32:** Technology Project Assistance
- **Program 33:** City Level Patent Model Enterprise
- **Program 34:** Balidian Town Public Listing Award

Note: the above titles of programs are to the best of Customs and Border Protection's knowledge and in some cases may simply be descriptions of the program. Consequently, the above titles may not exactly reflect any official titles that the GOC has in place.

In responding to this questionnaire, if the GOC is unfamiliar with the title given to a program, but is aware of the existence of a similar program or one that it appears is being referred to, please identify this (including providing the official title of any such program) and respond to the questionnaire in relation to that program.

For **each of the programs** identified above, answer the following questions.

Note: In responding to the questions in this part, you are required to provide information on each program, regardless of the year the benefit was granted by the GOC or the year that the benefit was received by the recipient company, where the program benefits impact on the production and sale of HSS and HRC during the investigation period.

Provide a copy of the laws, regulations, circulars, notice or other documents identified in Appendix B to this questionnaire.

B1 Provide details of the program including the following.

- (a) Policy objective and/or purpose of the program.
- (b) Legislation under which the subsidy is granted.

- (c) Nature or form of the subsidy.
- (d) When the program was established.
- (e) Duration of the program.
- (f) How the program is administered and explain how it operates.
- (g) To whom and how is the program provided.
- (h) The eligibility criteria in order to receive benefits under the program.

- B2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published prior to, during or since the investigation period.
- B3** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.
- B4** Identify the GOC department or agency administering the program.
- B5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.
- B6** Identify all Chinese HSS producers and/or exporters that have produced and/or exported HSS destined for Australia during the investigation period that accrued or received benefits under the program during the period 1 July 2001 – 30 June 2011.

Provide, on an annual basis by calendar year (separating July – Dec 2001 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

- B7** Answer the following questions regarding the application process:
 - (a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).
 - (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.
 - (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
 - (d) If the application is not approved, provide the disapproval documents together with the reasons for disapproval.
- B8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

B9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

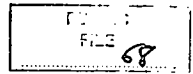
(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

B10 Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2007 to 30 June 2011.

B11 Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 July 2007 to 30 June 2011.

B12 How many companies have applied for benefits under this program in the year the financial assistance or benefit was approved and in each of year from 1 July 2007 to 30 June 2011?



- B13** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2007 to 30 June 2011? Provide the main reasons why applicants have been rejected.
- B14** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

SECTION C: DECLARATION

DECLARATION

The undersigned certifies that all information supplied herein in response to the questionnaire (including any data supplied in an electronic format) is complete and correct to the best of his/her knowledge and belief.

Date

Signature of authorised official

Name of authorised official

Title of authorised official