



**Australian Government**  
**Anti-Dumping Commission**

---

**CUSTOMS ACT 1901 - PART XVB**

**ANTI-DUMPING COMMISSION**  
**CONSIDERATION REPORT NO. 267**

**CONSIDERATION OF AN APPLICATION FOR REVIEW OF**  
**ANTI-DUMPING MEASURES**

**HOLLOW STRUCTURAL SECTIONS**  
**EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**BY**

**TIANJIN YOUFA STEEL PIPE GROUP CO LTD**

**9 September 2014**

# CONTENTS

CONTENTS .....	2
1 SUMMARY AND RECOMMENDATIONS .....	3
1.1 Recommendation .....	3
1.2 Application of law to facts.....	3
1.3 Findings and conclusions .....	3
2 BACKGROUND .....	4
2.1 Existing measures .....	4
2.2 Previous reviews .....	5
2.3 The current review application .....	6
2.4 The goods subject to the measures .....	6
2.5 Tariff classification.....	7
2.6 Australian industry producing like goods .....	7
3 CONSIDERATION OF THE APPLICATION.....	9
3.1 Findings.....	9
3.2 Legislative framework .....	9
3.3 Compliance with section 269ZB.....	9
3.4 Variable factors .....	10
3.5 Conclusions and recommendations .....	12

# 1 SUMMARY AND RECOMMENDATIONS

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by Tianjin Youfa Steel Pipe Group Co., Ltd (Tianjin Youfa) for the review of the dumping duty notice and countervailing duty notice applying to its exports to Australia of certain hollow structural sections (HSS)<sup>1</sup> from the People's Republic of China (China).

The application is based on a change in the variable factors. The variable factors relevant to the review are the normal value, export price, non-injurious price and the amount of countervailable subsidy received in respect of the goods. The application states that the normal value and export price have changed.

Tianjin Youfa is covered by the anti-dumping measures applying to 'All Other Exporters' of HSS from China. The applicant advised that it did not export HSS to Australia during the original investigation period but did export between the end of the investigation period and the date of the statement of essential facts for the original investigation. Therefore, Tianjin Youfa is not eligible to apply for an accelerated review of the measures under Division 6 of Part XVB of the *Customs Act 1901* (the Act).<sup>2</sup>

## 1.1 Recommendation

The Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) decide not to reject the application and initiate a review into the anti-dumping measures as they relate to Tianjin Youfa.

## 1.2 Application of law to facts

Division 5 of Part XVB of the Act sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the review of anti-dumping measures.

The Division empowers the Commissioner to reject or not reject an application for review of anti-dumping measures.

If the Commissioner does not reject the application, he is required to publish a notice indicating that it is proposed that the Commission review the measures covered by the application.

## 1.3 Findings and conclusions

The Commission is satisfied that:

- the application complies with s. 269ZB of the Act; and
- there appear to be reasonable grounds for asserting that a variable factor relevant to the taking of the measures has changed.

---

<sup>1</sup> Refer to the full description of the goods in section 3.3 of this report.

<sup>2</sup> A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

## 2 BACKGROUND

### 2.1 Existing measures

Following assessment of an application made by OneSteel Australian Tube Mills Pty Ltd,<sup>3</sup> the Australian Customs and Border Protection Service (ACBPS) initiated investigations into:

- the alleged dumping of HSS exported to Australia from China, the Republic of Korea (Korea), Malaysia, the Kingdom of Thailand (Thailand) and Taiwan; and
- the alleged subsidisation of HSS exported to Australia from China.

These investigations were collectively numbered 'Investigation 177'.

Notification of initiation of Investigation 177 was made in *The Australian* newspaper on 19 September 2011,<sup>4</sup> and Australian Customs Dumping Notice (ACDN) 2011/43, providing further details of the investigation, was issued on the same day.

After earlier terminating the investigation as is related to Thailand and certain Chinese exporters on 7 June 2012, the ACBPS provided its final report and recommendations to the Minister (ITRB Report 177) in relation to the remainder of Investigation 177.

In that report, in relation to dumping, the ACBPS concluded that:

- HSS exported from China to Australia was dumped with margins between 10.1 and 57.1 per cent;
- HSS exported from Korea to Australia was dumped with margins between 3.2 and 8.9 per cent;
- HSS exported from Malaysia to Australia was dumped with margins between 3.0 and 20.0 per cent;
- HSS exported from Taiwan to Australia was dumped with margins between 2.4 and 5.3 per cent;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

In making its findings in relation to dumping, ACBPS determined that there was a market situation in the Chinese domestic HSS market during the investigation period of Investigation 177,<sup>5</sup> which rendered domestic sales of HSS in China unsuitable for

---

<sup>3</sup> s. 269TB(1).

<sup>4</sup> s. 269TC(4).

<sup>5</sup> 1 July 2010 to 30 June 2011.

use in determining normal values under s. 269TAC(1) of the Act.<sup>6</sup> This finding was due to significant government influence in the domestic iron and steel market.

In relation to countervailing, the ACBPS concluded that 26 countervailable subsidies had been received by Chinese exporters of HSS. Subsidy margins of between 2.2 and 54.8 per cent were found for HSS exported from China to Australia by all exporters except for exports by Qingdao Xiangxing Steel Pipe Co., Ltd (Qingdao) and Huludao City Steel Pipe Industrial Co., Ltd (Huludao) (see termination discussion above).

The then Minister for Home Affairs accepted the recommendations contained in ITRB Report 177, including the reasons for the recommendations, the material findings of fact on which the recommendations were based, and the evidence relied on to support those findings.

Consequently, the Minister published a dumping duty notice imposing dumping duties on the goods exported to Australia from China, Korea, Malaysia and Taiwan<sup>7</sup> and a countervailing duty notice imposing countervailing duties on the goods exported to Australia from China (excluding Qingdao and Huludao)<sup>8</sup> in *The Gazette* and *The Australian* on 3 July 2012.

The notice also 'converted' dumping securities taken on HSS into interim dumping duties (IDD). Following a preliminary affirmative determination (PAD), dumping securities were taken on HSS exported from the subject countries entered for home consumption from 10 January 2012.<sup>9</sup> However, only securities pertaining to goods in relation to the dumping of HSS from the subject countries that were exported after this date were converted to IDD.<sup>10</sup>

Countervailing securities were not taken in relation to HSS.

The decision by the Minister to publish a dumping duty notice and a countervailing duty notice was the subject of review by the Trade Measures Review Officer and subsequently, reinvestigation by the ACBPS.

The reinvestigation resulted in the ACBPS recommending to the Minister that the dumping duty notice and countervailing duty notice remain in place with an alteration of the amount of IDD applicable to the exports of one Chinese exporter (Dalian Steelforce Hi-Tech Co Ltd). The Minister accepted this recommendation.

## **2.2 Previous reviews**

The anti-dumping measures applying to HSS have not been reviewed under Division 5 of the Act since they were imposed.

---

<sup>6</sup> I.e. a 'particular market situation' existed in the Chinese HSS market.

<sup>7</sup> ss. 269TG(1) and 269TG(2).

<sup>8</sup> s. 269TJ(2).

<sup>9</sup> s. 42.

<sup>10</sup> s. 269TD; s. 269TG(1)(d).

## 2.3 The current review application

On 20 August 2014, Tianjin Youfa lodged an application requesting a review of the anti-dumping measures as they apply to its exports of HSS to Australia from China. Tianjin Youfa claims that certain variable factors relevant to the taking of the anti-dumping measures have changed. The application states that it is supported by an Australian importer.

The application is not precluded by s. 269ZA(2), which requires that an application for review must not be lodged earlier than 12 months after the publication of a dumping duty notice, countervailing duty notice or a notice declaring the outcome of the last review of measures.

As an entity that has been directly concerned with the exportation of HSS to Australia, Tianjin Youfa is an affected party as defined in s. 269T of the Act and is therefore entitled to apply for a review.

Pursuant to s. 269ZC(1), the Commissioner must examine the application and, within 20 days after the lodgement date, decide whether to reject the application. The decision must be made no later than **9 September 2014**.

If the Commissioner is not satisfied, having regard to the application and to any other relevant information, of one or more matters referred to in s. 269ZC(2), the application must be rejected.

## 2.4 The goods subject to the measures

The goods subject to the measures (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 millimetres (mm) up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm.

The following additional information is provided to clarify the goods covered by the measures.

- **Finishing**

All HSS regardless of finish is included in the goods.

Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

Circular hollow sections 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, the Australian Standard AS 1163 or international equivalent standards (including ASTM International, Japanese Industry Standards and Korean Industrial Standards).

HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals.

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:

- 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 rectangular or square hollow sections with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes to Australian Standard 2556.

- **‘Structural’ sections**

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

## **2.5 Tariff classification**

The goods are classified to the following tariff subheadings in 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); and
- 7306.69.00 (statistical code 10).

The goods exported to Australia from China are subject to a 5% rate of Customs duty.

## **2.6 Australian industry producing like goods**

During the original investigation, the ACBPS found that:

- there was an Australian industry producing like goods;

- a substantial process of manufacture was carried out in Australia in producing the like goods;
- the like goods were wholly manufactured in Australia; and
- there was an Australian industry consisting of four Australian companies that produce like goods in Australia.

The Commission remains satisfied that, although there may now be only three Australian HSS manufacturers, there is an Australian industry producing like goods.



## **3 CONSIDERATION OF THE APPLICATION**

### **3.1 Findings**

Having regard to the applicant's claims and other relevant information, the Commissioner is satisfied that the application complies with s. 269ZB and there appear to be reasonable grounds for asserting that a variable factor relevant to the taking of anti-dumping measures has changed.

### **3.2 Legislative framework**

Subsection 269ZB(1) requires that the application be in writing, be in an approved form, contain such information as the form requires, and be signed in the manner indicated by the form.

Subsection 269ZB(2) states that the application must include:

...

- (a) a description of the kind of goods to which the measures the subject of the application relate; and*
- (b) a description of the measures the subject of the application; and*
- (c) if the application is based on a change in variable factors—a statement of the opinion of the applicant concerning:
  - (i) the variable factors relevant to the taking of the measures that have changed; and*
  - (ii) the amount by which each such factor has changed; and*
  - (iii) the information that establishes that amount;**

...

Subsection 269ZC(2) specifies the matters which the Commissioner must consider in making a decision whether to reject the application. These matters are:

...

- (a) that the application complies with section 269ZB; and*
- (b) that there appear to be reasonable grounds for asserting either, or both, of the following:
  - (i) that the variable factors relevant to the taking of anti-dumping measures have changed; or*
  - (ii) that the anti-dumping measures are no longer warranted.**

### **3.3 Compliance with section 269ZB**

The application lodged by Tianjin Youfa:

- is in writing;
- provides a description of the goods subject to the measures; and
- provides a description of the measures the subject of the application.

As stated above, s. 269ZB(2)(c) of the Act requires that if the application is based on a change in variable factors, the application must also include a statement of the opinion of the applicant concerning:

- the variable factors relevant to the taking of the measures that have changed;
- the amount by which each such factor has changed; and
- the information that establishes that amount.

In addition, the approved form requires that the application include information about the applicant's opinion on the causes of the change in the variable factor(s) and whether these causes are likely to persist.

The Commission's consideration of whether the application complies with subsection 269ZB(2)(c) of the Act and whether it contains all information required by the approved form is addressed in section 3.4 of this report under each variable factor. Section 3.4 also considers whether there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the anti-dumping measures have changed.

### **3.4 Variable factors**

To comply with s.269ZB of the Act, the applicant must provide information to establish that, in the applicant's opinion, one or more of the variable factors have changed. The applicant does not have to provide information to establish that all the variable factors have changed.

#### **3.4.1 Export prices**

##### **3.4.1.1 Applicant's claims**

In support of its claim that export prices have changed, Tianjin Youfa provided a quotation to an Australian steel import agent. The undated quotation provides pricing in US dollars per metric tonne (MT) for a certain finish of HSS and was valid until 6 June 2014. The quotation provides a range of prices for certain diameters and thicknesses of HSS. The quotation also lists payment terms and extra charges for HSS with other than plain ends.

Tianjin Youfa converted the US dollar per MT quotation prices to Australian dollars at a contemporary exchange rate and calculated that the quotation prices were significantly higher than the 'All Other Exporter' ascertained export price for the relevant type of HSS exported to Australia from China.

Tianjin Youfa also noted that the Australian dollar had appreciated significantly against the US dollar compared to the exchange rates relevant to the original investigation period.

##### **3.4.1.2 The Commission's assessment**

It appears that Tianjin Youfa has not exported HSS to Australia since the anti-dumping measures were imposed and is therefore unable to provide evidence that its actual export prices to Australia are different now to the ascertained export prices set

in July 2012. Tianjin Youfa instead provided a quotation listing prices apparently recently offered to an Australian steel import agent. The quotation indicates that, when converted to Australian dollars at a contemporary exchange rate, prices offered by Tianjin Youfa are significantly different to the current ascertained export price that would apply to exports by Tianjin Youfa (the 'All Other Exporters' from China rate).

The quotation prices alone are not strong evidence of a change in export prices. However, in conjunction with the movement in the Australian dollar, the quotation does suggest the export price has changed since the original investigation.

On the evidence available, the Commission is satisfied that there appear to be reasonable grounds for asserting a variable factor (ascertained export price) relevant to the taking of measures on HSS exported to Australia by Tianjin Youfa has changed.

### **3.4.2 Normal values**

#### **3.4.2.1 Applicant's claims**

Tianjin Youfa claimed that it was reasonable to assume that, along with export prices, normal values had also changed from those calculated for the original investigation period. It claimed that it could be expected that published and well-documented global falls in the prices for steel making inputs of iron ore and coking coal (of approximately 30 percent) would be reflected in a commensurate decline in hot-rolled coil (HRC) prices, the major input material used in the manufacture of HSS.

Tianjin Youfa claimed that in the original investigation, Chinese domestic HRC prices reported by a steel pricing service were uplifted by a factor because of a finding that the Chinese manufacturer's costs did not reflect competitive market costs (in fact, Chinese manufacturers actual HRC and narrow strip costs were replaced by benchmarks determined from verified data from other countries being investigated). Tianjin Youfa stated that reported 'domestic HRC price references' (presumably referring to Chinese domestic pricing) were now below the 'HRC price factor' from the original investigation.

Tianjin Youfa also noted that the Chinese Renminbi had appreciated against the Australian dollar compared to the exchange rates applying in the original investigation period.

#### **3.4.2.2 The Commission's assessment**

In the original HSS investigation, the relevant Minister found that a situation existed in the Chinese HSS domestic market that made domestic sales unsuitable for determining normal values. The Minister was also satisfied that the Chinese exporters' HRC and narrow strip costs did not reflect competitive market costs and these costs were replaced by benchmark costs derived from other countries under investigation.

In its application for review, Tianjin Youfa has not provided reliable evidence to support its claim that normal values have changed. It has made general claims about changes to the prices of HSS input materials but provided no evidence to support these claims. Tianjin Youfa points to a movement in Chinese domestic HRC prices

since the original investigation period. As HRC domestic prices were found, in the original investigation to be not competitive market costs and were replaced by a benchmark cost, a movement in these prices is not necessarily indicative of a movement in normal values.

On the evidence available, the Commission is not satisfied that there appear to be reasonable grounds for asserting the variable factor, ascertained normal value, relevant to the taking of measures on HSS exported to Australia by Tianjin Youfa has changed. As noted above, a change in one variable factor (in this case export price) is sufficient for the Commissioner to commence a review.

### **3.5 Conclusions and recommendations**

The Commission is satisfied that:

- the application complies with s. 269ZB of the Act; and
- there appear to be reasonable grounds for asserting that one of the variable factors (export price) relevant to the taking of the measures has changed.

In addition to this criterion, the Commission has also taken into account, as other relevant information, the fact that Tianjin Youfa did not export to Australia during the original investigation period and, therefore, did not have an opportunity to participate in the original investigation process. Tianjin Youfa is prevented from applying for an accelerated review only because of one shipment of HSS it exported to Australia after the original investigation period but before the publication of the statement of essential facts.

The Commission recommends that the Commissioner:

- not reject the application and initiate a review into the current anti-dumping measures (both dumping duty notice and countervailing duty notice) as far as they relate to exports to Australia from China by Tianjin Youfa; and
- the review period be set as 1 July 2013 to 30 June 2014.