



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

# **CONSIDERATION REPORT NO. 359**

**APPLICATION FOR AN ACCELERATED REVIEW OF A  
DUMPING DUTY NOTICE APPLYING TO**

**CERTAIN HOT ROLLED STRUCTURAL STEEL SECTIONS  
EXPORTED FROM TAIWAN BY  
DRAGON STEEL CORPORATION**

**28 June 2016**

**Consideration Report 359 – Hot rolled structural steel sections - Taiwan**

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## ABBREVIATIONS

the Act	<i>the Customs Act 1901</i>
ADN	Anti-Dumping Notice
CSC	China Steel Corporation
DIBP	Department of Immigration and Border Protection
DSC	Dragon Steel Corporation
Commission	Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Feng Hsin	Feng Hsin Iron & Steel Co Ltd
HRS	Hot rolled structural steel sections
Korea	Republic of Korea
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the then Parliamentary Secretary	the then Parliamentary Secretary to the Minister for Industry
MPa	Mega Pascals
NIP	Non-injurious Price
OneSteel	OneSteel Manufacturing Pty Ltd
REP 223	<i>Anti-Dumping Commission Report No. 223</i>
SYS	Siam Yamato Steel Co Ltd
Thailand	the Kingdom of Thailand

## 1 SUMMARY AND RECOMMENDATION

### 1.1 Introduction

This report provides the results of the Commissioner of the Anti-Dumping Commission's (the Commissioner) consideration of an application by Dragon Steel Corporation (DSC) for an accelerated review of the dumping duty notice in respect of certain hot rolled structural steel sections (HRS) from Taiwan in so far as the notice affects the applicant.<sup>1</sup>

### 1.2 Recommendation

The Anti-Dumping Commission (the Commission) recommends that the Commissioner not reject the application.

### 1.3 Application of law to facts

Division 6 of Part XVB of the *Customs Act 1901* (the Act) sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for an accelerated review of a dumping duty notice by certain exporters of goods covered by the respective notice.<sup>2</sup>

### 1.4 Findings and conclusions

The Commission has examined the application and is satisfied that:

- the application satisfies the requirements of section 269ZF(1)<sup>3</sup>;
- the conditions for rejection under subsection 269ZE(2) were not met; and
- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied.

Accordingly, the Commission concludes that the applicant is eligible to apply for, and has lodged a valid application for an accelerated review under the Act, and recommends that the Commissioner not reject the application.

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<sup>1</sup> Refer to the full description of the goods in Section 2.2 of this report.

<sup>2</sup> Unless stated otherwise, all legislative references in this report are to the *Customs Act 1901*.

<sup>3</sup> Subsection 269ZF(2) and (3) of the Act do not apply.

## 2 BACKGROUND

### 2.1 Existing measures

On 24 October 2013, an investigation into the alleged dumping of HRS exported to Australia from Japan, the Republic of Korea (Korea), Taiwan and the Kingdom of Thailand (Thailand) was initiated following an application lodged by OneSteel Manufacturing Pty Ltd (OneSteel). In that investigation, as outlined in the *Anti-Dumping Commission Report No. 223* (REP 223), it was found that:

- HRS exported to Australia from Japan, Korea and Thailand were dumped;
- HRS exported to Australia from Taiwan was dumped, except those exports by Feng Hsin Iron & Steel Co Ltd (Feng Hsin) which were not dumped; and
- the volume of dumped goods from Japan, Korea, Taiwan and Thailand and the dumping margins (other than for exports by Feng Hsin from Taiwan) were not negligible.
- the Australian industry producing like goods experienced injury caused by dumping in the form of price depression, price suppression, reduced profits and profitability, and reduced revenue.
- dumping and material injury would continue if measures are not imposed.
- the non-injurious price (NIP) should be assessed as equal to the normal value for each exporter.
- as the Commission had assessed the NIP at equal to the normal value for each exporter, the NIP is not the operative measure. The Commissioner recommended that the measures be in the form of the *ad valorem* duty method (i.e. a percentage of export price).

The findings and recommendations in REP 223 were provided to the then Parliamentary Secretary to the Minister for Industry (the then Parliamentary Secretary), recommending the publication of a dumping duty notice in respect of the goods. Notice of the then Parliamentary Secretary's decision to accept the recommendations in REP 223 was published in *The Australian* newspaper and the Commonwealth of Australia Gazette. Interested parties were also advised of this outcome in Anti-Dumping Notice No. 2014/127 on 20 November 2014.

On 7 August 2015, following a review by the Anti-Dumping Review Panel, the dumping duty notice was varied so that the effective rate of duty for HRS exported to Australia by Siam Yamato Steel Co Ltd (SYS) was varied from 18.28 per cent to 18.00 per cent with effect from 20 November 2014.

## **2.2 The goods the subject of the application**

### **2.2.1 Description**

The goods the subject of the application (the goods) are:

*Hot rolled structural steel sections in the following shapes and sizes, whether or not containing alloys:*

- *universal beams (I sections), of a height greater than 130mm and less than 650mm;*
- *universal columns and universal bearing piles (H sections), of a height greater than 130mm and less than 650mm;*
- *channels (U sections and C sections) of a height greater than 130mm and less than 400mm; and*
- *equal and unequal angles (L sections), with a combined leg length of greater than 200mm.*

*Sections and/or shapes in the dimensions described above, that have minimal processing, such as cutting, drilling or painting do not exclude the goods from coverage of the application.*

Goods excluded from this application are:

- *hot rolled 'T' shaped sections, sheet pile sections and hot rolled merchant bar shaped sections, such as rounds, squares, flats, hexagons, sleepers and rails; and*
- *sections manufactured from welded plate (e.g. welded beams and welded columns).*

In support of the above goods description, OneSteel also provided further information to clarify the nature of the goods, as follows:

*In Australia the goods are commonly known as universal beams, universal columns, universal bearing piles, parallel flange channels and both equal and unequal angles. Universal columns typically have their web lengths similar to their flange lengths, whereas universal beams typically have longer webs than flanges. In some other countries the term "H beams" applies to both universal beams and universal columns and the term "I beams" denotes tapered flange beams.*

*The common grades of steel that the goods subject to this application are sold to are grade 300 and grade 350. The minimal yield stress of the grade 300 refers to 300 Mega Pascals (MPa) and the minimal yield stress for grade 350 is 350 MPa.*

*The type of alloys that may be incorporated into the HRS steel sections include but is not limited to boron (typically with a boron amount above 0.0008 per cent or chromium above 0.3%). For clarity, the inclusion of alloy(s) is limited to the shapes and sizes identified above.*



## PUBLIC RECORD

*The majority of the goods that are subject to this application are manufactured to comply with or exceed the requirements set out in AS/NZS 3679.1:2010 Structural steel Part 1: Hot-rolled bars and sections.*

*Imported goods are mostly quoted to AS/NZS 3679.1, but if not will generally be quoted to an international standard that stipulates nominal yield strength of 300 Mega Pascals (MPa).*

### 2.2.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff code	Statistical code(s)	Unit	Description	Duty rate
7216.31.00	30	Tonnes	Channels – U and C sections	5% <sup>4</sup> DCS: Free <sup>5</sup>
7216.32.00	31	Tonnes	Universal beams – I sections	5% DCS: Free
7216.33.00	32	Tonnes	Universal column and universal bearing piles – H sections	5% DCS: Free
7216.40.00	33	Tonnes	Equal and unequal angles – L sections	5% DCS: Free
7228.70.00	11,12.	Tonnes	U, I or L sections or Other	5% <sup>6</sup> DCS: 4% DCT: 5% <sup>7</sup>

### 2.3 Consideration of the application for accelerated review

On 9 June 2016, DSC lodged an application for an accelerated review of the dumping duty notice that applies to HRS exported to Australia from Japan, Korea, Thailand and Taiwan in so far as the notice affects the applicant.

If the Commissioner does not reject the application or terminate the accelerated review, pursuant to subsections 269ZG(1) and (2) the Commissioner must, no later than 100 days after the application is lodged, provide the Assistant Minister for Science and

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<sup>4</sup> The rate of general duty in relation to 7216.31.00, 7216.32.00, 7216.33.00 and 7216.40.00 for goods imported from Japan is 2 per cent and for goods imported from Thailand is zero.

<sup>5</sup> With the exception of 7228.70.00 'DCS' denotes the rate for countries and places listed in Part 4 of Schedule 1 of the *Customs Tariff Act 1995*. Goods imported from Korea and Taiwan are subject to the DCS rate of duty.

<sup>6</sup> The rate of general duty for goods imported from Japan and Thailand is zero.

<sup>7</sup> 'DCT' denotes the rate for Hong Kong, Korea, Singapore and Taiwan.

## **PUBLIC RECORD**

Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary) a report recommending:<sup>8</sup>

- a) that the dumping duty notice the subject of the application remain unaltered; or,
- b) that the dumping duty notice the subject of the application be altered so as to apply to the applicant as if different variable factors had been fixed;

and sets out the Commissioner's reasons for so recommending.

In relation to this application, this report must be made no later than 17 September 2016. As the due date falls on a Saturday, the effective due date is the following business day, 19 September 2016.

### **2.4 Public record**

There is no legislative requirement for the Commissioner to maintain a public file for accelerated reviews. However, in the interests of ensuring the process is conducted in an open and transparent manner, a public file will be maintained.

This Consideration Report, along with a non-confidential version of the application and response to the exporter questionnaire, will be published on the Electronic Public Record, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Given the expedited nature of accelerated reviews and the shortened timeframe for the Commissioner to produce a final report, any submissions by interested parties should be lodged promptly.

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<sup>8</sup> On 23 December 2014, the Minister for Industry and Science delegated his powers and functions under Part XVB of the Act to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.



### **3 APPLICATION FOR ACCELERATED REVIEW - COMPLIANCE WITH SECTION 269ZF**

#### **3.1 Legislative Background**

Subsection 269ZF requires that an application for an accelerated review must:

- be in writing (subsection 269ZF(1));
- be lodged in a manner approved under section 269SMS;
- contain a description of the goods to which the dumping duty notice relates (paragraph 269ZF(1)(a)); and,
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate in so far as the exporter is concerned (paragraph 269ZF(1)(b)).

The application is taken to have been lodged when done so in accordance with the requirements in subsection 269ZF(2).

#### **3.2 Assessment of the application – compliance with section 269ZF**

The application received from DSC by email, was in writing (subsection 269ZF(1)), is taken to have been lodged in accordance with subsection 269ZF(2) and in the manner approved under subsection 269SMS(2), and contains a description of the goods to which the notices relate (paragraph 269ZF(1)(a)).

In accordance with the requirements of paragraph 269ZF(1)(b), the application also contains a statement from DSC that outlines the reasons why the company believes the current dumping duty notices are inappropriate in so far as the notices affect it.

DSC states in its application that as it did not export the goods to Australia during the original investigation period, it was not contacted and investigated by the Commission. As such DSC did not have the opportunity to participate in the investigation and seek an individual determination of its ascertained variable factors. DSC states that it is currently subject to the 'uncooperative and all other rate' from Thailand, which is based on variable factors of other exporters.

The Commissioner is satisfied that the application complies with subsections 269ZF(1) and was taken to have been lodged in accordance with subsection 269ZF(2), as discussed below.

#### **3.3 Lodgement date**

On 9 June 2016, DSC formally lodged a non-confidential application for an accelerated review. A copy of its application is at **Appendix 1**. This application is available on the public record. On receipt of the application, the Commission recorded the date on which the application was received as 9 June 2016 in accordance with subsection 269ZF(3). If

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the Commissioner does not reject the application, the initiation date will be taken to be the application lodgement date of 9 June 2016.

## **4 CIRCUMSTANCES IN WHICH AN ACCELERATED REVIEW MAY BE SOUGHT – COMPLIANCE WITH SECTION 269ZE**

### **4.1 Background**

Section 269ZE sets out the circumstances in which an accelerated review may be sought.

The conclusions in this section are made on the basis of all currently available information. If, during the accelerated review, evidence becomes available that satisfies the Commissioner that the requirements of subsection 269ZE(3) are not met, the Commissioner may terminate the review.

### **4.2 Status as a new exporter**

#### **4.2.1 Background**

Subsection 269ZE(1) provides that a “new exporter” may apply for an accelerated review. A new exporter is defined in subsection 269T(1) as, in relation to goods the subject of an application for a dumping or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application.

Subsection 269ZE(1) provides that a new exporter can apply for an accelerated review if a dumping duty or countervailing duty notice has been published in respect of goods exported from a particular country or in respect of goods exported by new exporters from a particular country of export, provided a declaration has not already been made in respect of that exporter under paragraph 269ZG(3)(b).

Subsection 269T(1) also defines “application” in relation to a dumping duty notice or a countervailing duty notice as meaning an application for the publication of such a notice.

#### **4.2.2 New exporter period**

To fall within the definition of a new exporter in subsection 269T(1), the period within which the applicant must not have exported to Australia (the new exporter period) is from 1 October 2012 to 30 September 2013 (the investigation period for the original investigation).

#### **4.2.3 Evidence of exports during the new exporter period**

A search of the Department of Immigration and Border Protection (DIBP) import database did not reveal any exports of the goods to Australia by DSC during the period 1 October 2012 to 30 September 2013.

Based on the available information, the Commissioner considers that DSC should be considered as a new exporter for the purposes of the accelerated review.

#### **4.2.4 Declaration under subsection 269ZG(3)(b)**

Pursuant to subsection 269ZE(1)(b), a new exporter cannot apply for an accelerated review if they had previously applied for an accelerated review that resulted in a declaration being made in respect of that exporter under subsection 269ZG(3)(b).

A declaration under subsection 269ZG(3)(b) has not been made in respect of the applicant.

#### **4.3 Cooperation in regards to the application for a dumping duty notice**

Subsection 269ZE(2)(a) provides that, if the Commissioner is satisfied that, because the exporter refused to cooperate in relation to the application for a dumping duty notice or a countervailing duty notice, the exportations from that exporter were not investigated (in the original investigations), the Commissioner may reject the application.

Noting the above finding that there is no evidence of exports by DSC during the investigation period for the original investigation, DSC's cooperation would not have been sought during the original investigation. A review of the information from the original investigation reveals that the company was not identified as an exporter.

The Commissioner considers that there are no grounds for rejection under subsection 269ZE(2)(a).

#### **4.4 Relationships with selected exporters**

Paragraph 269ZE(2)(b) provides that, if the Commissioner is satisfied that the exporter (i.e. the applicant for an accelerated review) is related to an exporter that had its exports examined in the application for the publication of a dumping duty notice, the Commissioner may reject the application.

DSC's application stated that '*it is not related to any exporter whose exports were examined in relation to the application for publication of the notice*'. However, no additional information was provided to support this position.

The Commission's own assessment of publicly available information about DSC revealed that DSC is a wholly owned subsidiary of the China Steel Corporation (CSC).<sup>9</sup> CSC's company brochure indicates that Chung Hung Steel Corporation (Chung Hung) is also part of CSC. The Commission's review of the DIBP customs data detailing imports of the goods confirmed that neither CSC or Chung Hung had exported HRS during the original investigation period.<sup>10</sup>

Given the information available, the Commissioner considers there are no grounds for rejection under subsection 269ZE(2)(b).

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<sup>9</sup> <http://www.csc.com.tw/indexe.html>

<sup>10</sup> Exports of Hot Rolled Coil from Taiwan by Chung Hung and CSC are currently subject to anti-dumping measures.

## **4.5 Summary of findings**

In accordance with section 269ZE, on review of the application and all information currently available, the following findings have been made about whether the circumstances exist in which accelerated reviews may be sought:

- the applicant did not export HRS during the period for which new exporters cannot have exported and is not an exporter in respect of whom a declaration has already been made under subsection 269ZG(3)(b). Consequently, the applicant meets the definition of a new exporter and satisfies the requirements for requesting an accelerated review as stated at subsection 269ZE(1);
- the applicant did not refuse to cooperate in relation to the application for a dumping duty notice or a countervailing duty notice, and the application should not be rejected under paragraph 269ZE(2)(a); and
- the applicant does not appear to be related to any exporter that had its exports examined in the original investigation and therefore the application should not be rejected under paragraph 269ZE(2)(b).

## **5 CONCLUSION**

The Commission has considered the application made by DSC to determine if it satisfied the requirements of sections 269ZE, 269ZF.

The Commission concludes, on the basis of currently available information, that:

- the application satisfies the requirements of section 269ZF(1);
- the conditions for rejection under section 269ZE(2) are not met; and
- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied.

Accordingly, the Commission recommends that the Commissioner not reject the application for an accelerated review of the dumping duty notice applying to HRS exported to Australia from Taiwan, in so far as the notice affects the applicant.

Should the Commissioner decide not to reject this application for an accelerated review, the Commission recommends that the review period for the accelerated review be from 1 April 2015 to 31 March 2016.

## 6 SECURITIES

When an application for an accelerated review of a dumping duty notice is lodged, subsection 269ZH(a) provides that no interim duty can be collected in respect of consignments of goods, to which the application relates, entered for home consumption after the application is lodged and until the completion of the accelerated review.

However, pursuant to subsection 269ZH(b), the Commonwealth may, on the importation of goods to which the application relates, require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable.

Should the Commissioner not reject the application, and an accelerated review is conducted, the Commonwealth may require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable.

A table outlining the variable factors relevant to calculating the amount of securities is provided at **Confidential Attachment 1**.



## **7 APPENDICES AND ATTACHMENTS**

<b>Appendix 1</b>	DSC Application
<b>Confidential Attachment 1</b>	Table 1 – variable factors relevant to calculation of securities