



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 346

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

**HOT ROLLED STRUCTURAL STEEL SECTIONS EXPORTED TO
AUSTRALIA FROM
THE KINGDOM OF THAILAND BY**

SIAM YAMATO STEEL CO. LTD.

11 APRIL 2016



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ABBREVIATIONS

Abbreviation	Full title
ABF	Australian Border Force
ADN	Anti-dumping Notice
ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
the applicant	Siam Yamato Steel Co., Ltd or SYS
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	Cost to manufacture
CTMS	Cost to make and sell
DIBP	Department of Immigration and Border Protection
EPR	Electronic Public Record
Explanatory Memorandum	Explanatory memorandum to the <i>Customs Legislation (Anti-Dumping Amendments) Bill 1998</i>
HRS	Hot rolled structural steel sections
the goods	the goods to which the anti-dumping measures apply
TKM	ThyssenKrupp Mannex Pty Ltd
the Parliamentary Secretary	the Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science
the then Parliamentary Secretary	the then Parliamentary Secretary to the Minister for Industry
REP 223	Anti-Dumping Commission Report No. 223
Thailand	the Kingdom of Thailand



1 SUMMARY AND RECOMMENDATION

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by Siam Yamato Steel Co., Ltd (SYS) for a review of the dumping duty notice as it relates to that company's exports of hot rolled structural steel sections (HRS)¹ to Australia from the Kingdom of Thailand (Thailand).

The application is based on an alleged change in the variable factors; being the normal value and export price (a variable factors review).

1.1 Recommendation

The Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) not reject the application for the reasons outlined in Section 1.3 of this report.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for a review of measures.

Division 5 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 to review the measures covered by the application.

1.3 Findings and conclusions

Based on the findings outlined in this report the Commission is satisfied:

- the application complies with section 269ZB(1) and (2) of the Act; and
- that there appear to be reasonable grounds for asserting the variable factors relevant to the taking of anti-dumping measures have changed.

As the Commission is satisfied that there are reasonable grounds to establish that there has been a change in the variable factors referred to in subsection 269ZC(2), it recommends that the Commissioner not reject the application under subsection 269ZC(1), and inform the applicant, by notice in writing, accordingly.

¹ Refer to the full description of the goods in Section 2.3 of this report.

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



2 BACKGROUND

2.1 Existing measures

On 24 October 2013, the Commissioner initiated a dumping investigation into HRS exported to Australia from Japan, the Republic of Korea (Korea), Taiwan and the Kingdom of Thailand (Thailand) following an application lodged by OneSteel Manufacturing Pty Ltd (OneSteel), a manufacturer of hot rolled structural steel sections (HRS) in Australia.

In that investigation, and as outlined in Report No. 223 (REP 223),³ it was found that:

- the goods exported to Australia from Japan, Korea, Taiwan and Thailand were dumped, with margins ranging from 2.20% to 19.48%;
- 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.

Particulars of the dumping margins established for each of the exporters, and the effective rates of duty, are set out in the following table:

Country	Manufacturer/ exporter	Dumping margin and effective rate of duty	Duty Method	Method to establish dumping margin
Japan	JFE Bars and Shapes Corporation	12.15%	Ad valorem	Weighted average export prices were compared with corresponding normal values over the investigation period in terms of s.269TACB(2)(a) of the <i>Customs Act 1901</i> .
	Uncooperative Exporters	12.23%	Ad valorem	
Korea	Hyundai Steel Company	2.52%	Ad valorem	
	Uncooperative Exporters	3.24%	Ad valorem	
Taiwan	TS Steel Co Ltd	4.68%	Ad valorem	
	Tung Ho Steel Enterprise Corporation	2.20%	Ad valorem	
	Uncooperative Exporters	7.89%	Ad valorem	
Thailand	Siam Yamato Steel Co Ltd	18.00% ⁴	Ad valorem	
	Uncooperative Exporters	19.48%	Ad valorem	

Figure 1 – dumping margins

³ Electronic Public Record (EPR) 2213/098 refers.

⁴ As varied by the then Parliamentary Secretary to the Minister for Industry and Science on 7 August 2015, following the recommendation of the Anti-Dumping Review Panel. See <http://www.adreviewpanel.gov.au/CurrentReviews/Documents/HRSSS%20Parliamentary%20Secretary%27s%20Decision.pdf>



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 of the decision to impose these dumping duties, the dumping duty notice was varied so that the effective rate of duty for HRS exported to Australia by SYS was varied from 18.28% to 18.00% with effect from 20 November 2014.

2.2 Concurrent Reviews

On 21 March 2016, the Commission received an application for a review of measures as they pertain to HRS exported from Taiwan. A decision whether to reject the application is due to be made by the Commissioner on or before 11 April 2016.

2.3 The current review application

On 23 March 2016, an application was lodged by SYS requesting a review of the anti-dumping measures as they apply to that company's exports of HRS to Australia from Thailand. An application was originally submitted by SYS on 19 February 2016 but this was withdrawn due to a number of deficiencies being identified.

SYS claims that certain variable factors relevant to the taking of the anti-dumping measures have changed within the period January 2015 to December 2015 (the review period).

SYS submitted information to show that normal value has decreased. Cost to make and sell (CTMS) data was submitted to show that the CTMS has fallen since the original investigation period, which has been facilitated by lower scrap prices. A sample of domestic price lists and export order confirmations were also submitted in support of a change in the variable factors.

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

Pursuant to subsection 269ZC(1), the Commissioner must, within 20 days after receiving the application, examine the application and decide whether to reject the application. In this case, the decision whether to reject the application must be made no later than **12 April 2016**.



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

2.4 The goods subject to the measures

The goods to which the current anti-dumping measures apply (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 investigation.

The measures do not apply to the following goods:

- *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).*

2.4.1 Tariff classification of the goods

Goods identified as hot rolled non-alloy steel sections, as per the shapes and sizes described above, are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7216.31.00 statistical code 30 (channels – U and C sections);
- 7216.32.00 statistical code 31 (universal beams – I sections);
- 7216.33.00 statistical code 32 (universal column and universal bearing piles – H sections); and
- 7216.40.00 statistical code 33 (equal and unequal angles – L sections).



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2.5 Australian industry producing like goods

During the original investigation, the Commission found that:

- the HRS manufactured or produced by the Australian industry were like goods;
- the like goods were wholly manufactured in Australia; and
- there was an Australian industry producing like goods, being OneSteel.

A review of Orrcon Steel⁵ and Onesteel's⁶ product information on their respective websites confirms that HRS continues to be offered for sale publically by Australian industry. As such, the Commission remains satisfied that there is an Australian industry producing like goods.

⁵ Orrcon Steel, Steel Manufacturing, Steel Range, Hot Rolled Structural Steel, <http://www.orrconsteel.com.au/en/Services/Steel-Range>, accessed on 24 March 2016.

⁶ OneSteel, 7th edition hot rolled and structural steel products catalogue, <http://www.onesteel.com/productspecc.asp?specID=79>, accessed on 24 March 2016



3 CONSIDERATION OF THE APPLICATION

3.1 Legislative background

Subsection 269ZB(1) requires that the application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved by section 269SMS.

Without otherwise limiting the matters that can be required by the form to be included, subsection 269ZB(2) provides that the application must include:

- a description of the kind of goods to which the measures the subject of the application relate; and
- a description of the measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
 - the variable factors relevant to the taking of the measures taken that have changed; and
 - the amount by which each such factor has changed; and
 - information that establishes that amount; and
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

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

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

3.2 Assessment of the application – compliance with section 269ZB

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that the application submitted on 23 March 2016:

- is in writing;
- contains such information as the form requires (including evidence in support of the amount by which normal value and export prices have changed since anti-dumping measures were last imposed and information on the causes of



the change to normal values and export prices and whether these causes are likely to persist;

- is signed in the manner required by the form;
- was lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under subsection 269SMS(2));
- provides a description of the kind of goods to which the measures the subject of the application relate;
- provides a description of the measures the subject of the application;
- includes a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the measures taken have changed; the amount by which such each factor has changed; and the information that establishes that amount.

The Commission is satisfied that the applicant has met the requirements of subsections 269ZB(1) and (2).

3.3 Variable factors

SYS claims that the normal value and export price of the goods in relation to its exports have changed.

If the application is based on a change in variable factors, paragraph 269ZB(2)(c) requires that the applicant provide a statement of its opinion regarding:

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

The application included the identification of changes to the normal value and export price, supported by domestic CTMS data and export price sales data.

The following sections consider SYS's claims in more detail that normal value and export price have changed and whether the application complies with 269ZB(2).

3.3.1 Normal value

3.3.1.1 Original calculation

During the original investigation the Commission considered that domestic sales of HRS by SYS had characteristics closely resembling those of the goods during the investigation period. Consequently, the Commission was satisfied that HRS sold by SYS on the domestic market in Thailand were like goods in accordance with subsection 269T(1).



Normal values for certain exported models were determined under subsection s.269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade at the same level of trade as export sales.

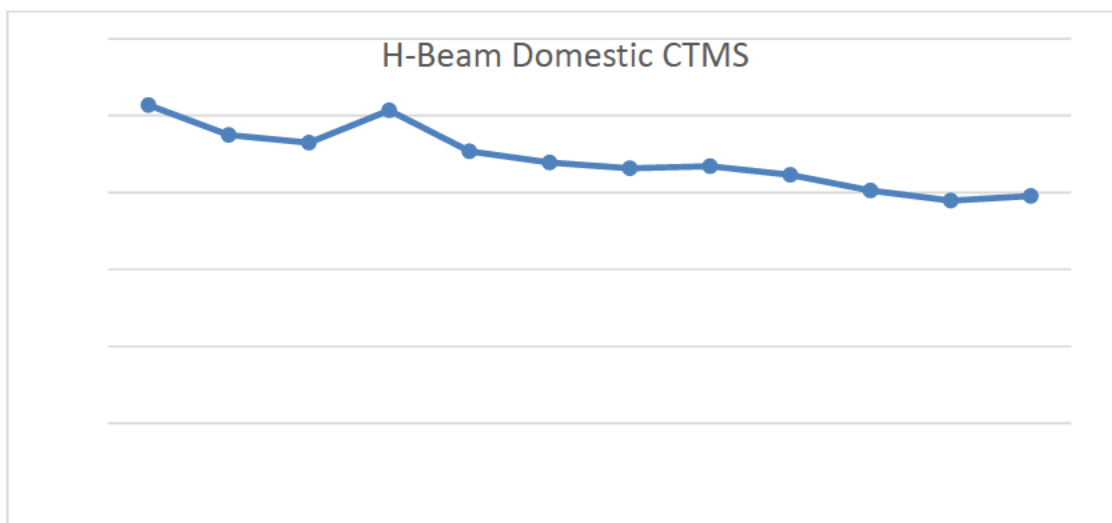
Normal values for SYS were calculated on the basis of shape as its CTMS data was provided on a shape basis.⁷

3.3.1.2 Applicant's claims

SYS has claimed that the weighted average normal value is lower than the normal value ascertained at the time of the investigation.

Aggregate monthly information on sales volumes, invoice amounts and adjustments has been provided by the applicant, who has indicated that the normal value has been calculated consistently with the methodology that was employed in the original investigation.

The following CTMS data and accompanying graph was provided in respect of H beams (also known as I sections), which shows a fall in CTMS from the original investigation.



The applicant stated that the change in normal value is lasting in nature for the following reasons:

- SYS has adopted a policy of lowering domestic prices to encourage the market to switch from rebar steel to product section steel, especially within the conventional construction sector;

⁷ See page 51 of the REP 223.



- to support the marketing switch to production section steel, SYS is extending the product scope to include the grade SS 400, which is perceived as being competitively priced;
- lower domestic prices have also been facilitated by the lowering of the cost of scrap.

3.3.1.3 The Commission's assessment

The Commission considers that SYS has provided:

- a statement that normal value has changed; and
- a statement of its opinion concerning the amount by which the normal value has changed (based on the difference between the ascertained normal value of the original investigation and revised normal value calculations); and
- information that establishes that amount.

The applicant has also complied with the various legislative requirements for submitting the form and has included the information required by the form.

Therefore, the Commission is satisfied that, in respect to this variable factor, the application complies with section 269ZB(1) and (2).

3.3.2 Export price

3.3.2.1 Original calculation

During the original investigation the Commission established export prices for exports by SYS pursuant to paragraph 269TAB(1)(a) of the Act, being the price paid by the importer less transport and other costs arising after exportation.

3.3.2.2 Applicant's claims

SYS has claimed that the weighted average export price is higher during the review period than the export price ascertained during the original investigation.

In support of this information, SYS submitted aggregate Australian monthly sales data for the nominated review period.

This information was generally consistent with information within the Commission's possession. The Commission examined CRE data for the review period and identified an additional consignment sale which occurred in July 2015. This sale was not included in the aggregate Australian sales data provided by the exporter and according to CRE was made on a cost, insurance and freight basis and originated



from Singapore. Dumping duty was paid on this consignment. As such, this missing consignment is not considered to be of concern.⁸

The applicant stated that the change in export prices is lasting in nature for the following reasons:

- SYS has focused on providing a better and flexible service to the end-user by sending smaller lots and also improving delivery schedules.

3.3.2.3 The Commission's assessment

The Commission considers that SYS has provided:

- a statement that the export price has changed;
- a statement of its opinion concerning the amount by which the export price has changed (based on the difference between the ascertained normal value of the original investigation and revised normal value calculations); and
- information that establishes that amount.

The applicant has also complied with the various legislative requirements for submitting the form and has included the information required by form.

Therefore, the Commission is satisfied that, in respect to this variable factor, the application complies with sections 269ZB(1) and (2).

3.3.3 Dumping margin

The applicant asserts that a comparison of the normal value and export prices on a Free alongside ship (FAS) basis during the review period results in a negative dumping duty, consistent with the information and supporting documents provided as part of the application.

3.3.4 Non-injurious price

The ascertained non-injurious price in the original investigation was determined to be the same as the ascertained normal value. The application did not claim a change in this variable factor.

3.4 Assessment of application – compliance with section 269ZC

In determining whether to reject an application under section 269ZC, a further matter required to be considered by the Commissioner is whether there appear to be

⁸ Inquiries were made of the applicant regarding this additional consignment. The applicant indicated that it was not aware of the shipment and provided an extract from the Thai Customs Department indicating that no shipments were exported to Australia during July-December 2015, which is consistent with a sale originating in Singapore.



reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed.

The Explanatory Memorandum to the *Customs Legislation (Anti-Dumping Amendments) Bill 1998* (the Explanatory Memorandum) that introduced section 269ZC, states that:

'[f]or a review to commence, there must be "reasonable grounds" for the relevant anti-dumping measure to be amended or revoked. That is, there are sufficient grounds to allow the [Commissioner] to determine that, if on the basis of information available to him or her, the [Commissioner] would be induced to recommend to the Minister a change in the relevant factors...'

The Commission considers that on the basis of information available to him the Commissioner has sufficient grounds to determine whether or not he would be induced to recommend to the Parliamentary Secretary a change in the relevant variable factors.

Accordingly, there appear to be reasonable grounds for asserting under subparagraph 269ZC(2)(b)(i) that the variable factors relevant to the taking of anti-dumping measures have changed.

Based on this assessment, the Commission considers that the Commissioner must not reject the application pursuant to subsection 269ZC(1) of the Act as it is satisfied of the matters referred to in subsection 269ZC(2).

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 the variable factors relevant to the taking of the measures have changed.

The Commission recommends that the Commissioner:

- not reject the application and initiate a review into the current anti-dumping measures; and
- the review period be set as 1 January 2015 to 31 December 2015.