



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**CONSIDERATION REPORT
NO. 465**

**CONSIDERATION OF AN APPLICATION FROM ONESTEEL
MANUFACTURING PTY LTD FOR
A REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
HOT ROLLED STRUCTURAL STEEL SECTIONS EXPORTED TO
AUSTRALIA FROM THE REPUBLIC OF KOREA**

MARCH 2018

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ABBREVIATIONS

Abbreviation	Full title
ADN	Anti-dumping Notice
the Act	<i>Customs Act 1901</i>
the applicant	OneSteel Manufacturing Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dragon Steel	Dragon Steel Corporation
EPR	Electronic Public Record
the goods	the goods to which the anti-dumping measures apply
HRS	Hot rolled structural steel sections
Hyundai Steel	Hyundai Steel Company
Korea	the Republic of Korea
OneSteel	OneSteel Manufacturing Pty Ltd
the Assistant Minister	the Assistant Minister for Science, Jobs and Innovation
the then Parliamentary Secretary	the then Parliamentary Secretary to the Minister for Industry
NIP	Non-injurious price
REP 223	<i>Anti-Dumping Commission Report No. 223</i>
review period	1 January 2017 – 31 December 2018
SYS	Siam Yamato Steel Co Ltd
Thailand	the Kingdom of Thailand
Tung Ho	Tung Ho Steel Enterprise Corporation

1 SUMMARY AND RECOMMENDATION

1.1 Background

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by OneSteel Manufacturing Pty Ltd (OneSteel) for a review in respect of the anti-dumping measures applying to exports of hot rolled structural steel sections (HRS or the 'goods') from the Republic of Korea (Korea) to Australia.

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

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)¹ sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (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 an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

Subsection 269ZC(4) provides that the Commissioner, if he decides to not reject the application, may recommend to the Assistant Minister for Science, Jobs and Innovation (the Assistant Minister)² that the review be extended to include any additional matters.³

1.3 Findings and conclusions

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

- the application complies with section 269ZB(1) and (2); and
- there appear to be reasonable grounds for asserting the variable factors relevant to the taking of anti-dumping measures, in respect of HRS exported from Korea to Australia, have changed.

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

² On 20 December 2017, the Prime Minister appointed the Parliamentary Secretary to the Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation.

³ For example, if the change in variable factors affects all exporters, it may be recommended that the review is extended to include all exporters.

1.4 Recommendation

The Commission recommends that the Commissioner not reject the application, for the reasons outlined in section 1.3 and chapter 3 of this report, and initiate a review into the anti-dumping measures applying to HRS exported from Korea to Australia.

As the Commission is satisfied that there are reasonable grounds to establish that there has been a change in the variable factors⁴ 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.

⁴ As defined in subsection 269T(4E), in relation to a review of a dumping duty notice, the variable factors are export price, normal value and non-injurious prices (NIP). Although OneSteel has not claimed a change in the NIP in the application, the Commission considers it necessary to review all relevant variable factors, including the NIP.

2 BACKGROUND

2.1 History of the existing anti-dumping measures

2.1.1 Original investigation

On 24 October 2013, the Commissioner initiated a dumping investigation into HRS exported to Australia from Japan, Korea, Taiwan and the Kingdom of Thailand (Thailand) following an application lodged by OneSteel, a manufacturer of HRS in Australia.

In that investigation, and as outlined in *Anti-Dumping Commission Report No. 223* (REP 223),⁵ 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% ⁶	Ad valorem	
	Uncooperative Exporters	19.48%	Ad valorem	

Figure 1 — dumping margins established in REP 223

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

⁵ See Electronic Public Record (EPR) 223 Item 096.

⁶ 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>

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 (ADN) No. 2014/127 on 20 November 2014.⁷

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 Siam Yamato Steel Co Ltd (SYS) was varied from 18.28% to 18.00% with effect from 20 November 2014.

2.1.2 Previous review of measures

Review 345 - exports of the goods from Taiwan by Tung Ho Steel

On 21 March 2016, Tung Ho Steel Enterprise Corporation (Tung Ho) lodged an application for a review of the dumping duty notice applying to HRS exported to Australia from Taiwan, claiming that the variable factors relevant to the taking of the anti-dumping measures had changed. *Anti-Dumping Commission Report No. 345* recommended that the dumping duty notice have effect in relation to Tung Ho as if the different variable factors had been ascertained relevant to the determination of duty.

The then Parliamentary Secretary's decision to alter the notice as it applied to Tung Ho Corporation was published on the Commission's EPR 345 on 19 October 2016.

Review 346 - exports of the goods from Thailand by Siam Yamato Steel Co Ltd

On 23 March 2016, SYS lodged an application for a review of the dumping duty notice applying to HRS exported to Australia from Thailand, insofar as it affected SYS. *Anti-Dumping Commission Report No. 346* recommended that the dumping duty notice have effect in relation to SYS as if different variable factors had been ascertained relevant to the determination of duty.

The then Parliamentary Secretary's decision to alter the notice as it applied to SYS was published on the Commission's EPR 346 on 19 October 2016.

Accelerated review 359 - exports from Taiwan by Dragon Steel Corporation

On 9 June 2016, Dragon Steel Corporation (Dragon Steel) lodged an application for an accelerated review of the dumping duty notice applying to certain HRS exported to Australia from Taiwan, insofar as it affected Dragon Steel. *Anti-Dumping Commission Report No. 359* recommended that the dumping duty notice have effect in relation to Dragon Steel as if the then Parliamentary Secretary had fixed specific different variable factors relevant to the determination of duty.

⁷ See EPR 223, item 098.

The then Parliamentary Secretary's decision to alter the notice as it applied to Dragon Steel was published on the Commission's EPR 359 on 18 October 2016.

2.2 The current review application

On 27 February 2018, an application was lodged by OneSteel requesting a review of the anti-dumping measures as they apply to all exporters of HRS to Australia generally from Korea.

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.⁸

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. 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. In this case, the decision whether to reject the application must be made no later than **19 March 2018**.

OneSteel claims that certain variable factors relevant to the taking of the anti-dumping measures have changed within the period January 2017 to December 2017 (the review period).

2.2.1 Normal value

In REP 223, the normal value for the only cooperative exporter from Korea, Hyundai Steel Company (Hyundai Steel) was established under subsection 269TAC(1). For uncooperative and all other exporters from Korea the normal value was established under subsection 269TAC(6) by reference to the normal value determined for Hyundai Steel.

OneSteel submitted average monthly sales information for domestic sellers in Korea of like goods as a basis for evidencing a change in the normal value of the goods exported from Korea.

2.2.2 Export price

In REP 223, the export price for exports made by Hyundai was established under subsection 269TAB(1)(a). For uncooperative and all other exporters from Korea, the Commission established export prices pursuant to subsection 269TAB(3) by reference to the export price determined for Hyundai Steel.

⁸ The most recent notice was ADN No. 2016/98, published on 19 October 2016.

OneSteel submitted monthly weighted average export price of the goods exported from Korea as a basis for evidencing and quantifying a change in the export prices of the goods exported from Korea.

2.2.3 Non-injurious price

As outlined in REP 223, the NIP was ascertained to be equal to the normal value for each exporter, on the basis that the injury caused by dumping is due to OneSteel's matching of import prices.

2.3 The goods subject to the anti-dumping measures

2.3.1 Description of the goods

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

2.3.2 Excluded goods

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).*

2.3.3 Tariff classification

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*:

PUBLIC RECORD

- 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).

Goods identified as hot rolled alloy steel sections, as per the shapes and sizes described above, are classified to tariff subheading 7228.70.00 (statistical codes 11 and 12) in schedule 3 of the *Customs Tariff Act 1995*.

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 under section 269SMS.

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

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping 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 anti-dumping measures that have changed; and
 - the amount by which each such factor has changed; and
 - the information that establishes that amount;
- 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;
 - 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 27 February 2018:

- is in writing;
- is in the approved form (*Form B602 — Application for a review of measures*) and contains such information as the form requires (including evidence in support of the amount by which the variable factors have changed since anti-dumping measures were last imposed and information on the causes of the change to normal value 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 section 269SMS);
- provides a description of the kind of goods to which the anti-dumping measures the subject of the application relates;
- provides a description of the anti-dumping measures the subject of the application; and
- includes a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the measures have changed; the amount by which each such factor has changed; and the information that establishes that amount.

The Commission is satisfied that the applicant has satisfied the requirements of subsections 269ZB(1) and (2). Section 3.3 addresses the applicant's claim that there has been a change in the variable factors.

3.3 Assessment of claimed change in variable factors

To comply with section 269ZB, the applicant must provide information to establish that, in the applicant's opinion, one or more of the variable factors have changed.⁹ The applicant does not have to provide information to establish that all the variable factors have changed.

3.3.1 Normal value established in REP 223

During the original investigation the Commission considered that domestic sales of HRS by Hyundai had characteristics closely resembling those of the goods exported during the investigation period. Consequently, the Commission was satisfied that HRS sold by Hyundai on the domestic market in Korea were like goods in accordance with subsection 269T(1). In determining the closest subset of like goods for calculating normal values, the Commission found that SS400 grade steel was the closest subset of like goods to the G300 (export grade to Australia) grade.

Normal values for models exported to Australia by Hyundai were determined under subsection 269TAC(1) based on domestic sales of the comparable models sold in the ordinary course of trade at the same level of trade as export sales. The Commission adjusted the domestic sales figures to ensure the comparability of normal values to export prices pursuant to subsection 269TAC(8) of the Act.¹⁰

3.3.2 Applicant's claim regarding change in normal value

OneSteel has claimed that the weighted average normal value is likely to have increased since the normal value was last ascertained by **10.7** per cent. The information that OneSteel used to establish this claim was data from a subscription

⁹ Subsection 269ZB(2)(c)

¹⁰ For a list of adjustments made pursuant to s. 269TAC(8), see REP 223 pp. 43–44.

service showing movements in the domestic sales price in Korea for H beams (of dimensions that fall within the goods description) expressed in AUD.

The applicant also observed a strong correlation between movements in the price of steel scrap and Korean domestic prices.

3.3.3 The Commission's assessment of claim regarding change in normal value

The Commission has reviewed the data provided by OneSteel on which it relies to support its statement of opinion that the normal value has increased.

The Commission notes that the variable factors ascertained in respect of Korean exporters in REP 223 are expressed in South Korean Won. As such, the Commission considers that it is more appropriate to measure the change in the normal value in South Korean Won. When analysed in this currency, the data submitted by OneSteel suggests a decrease,¹¹ rather than an increase, in the normal value.

Other data before the Commission, sourced from alternative steel information subscription services, also suggests a fall in the normal value.

Nevertheless, the Commission considers that OneSteel has provided:

- a statement that normal value has changed;
- 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 its 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.

3.3.4 Export price established in Investigation 223

During the original investigation, export prices for Hyundai were established pursuant to subsection 269TAB(1)(a) of the Act using the invoiced export price, by product model, less transport and other costs arising after exportation.¹²

3.3.5 Applicant's claim regarding change in export price

OneSteel has claimed that the weighted average export price is likely to have decreased from the export price last ascertained by **1.5** per cent.

The information that OneSteel used to establish this claim was data from a subscription service regarding the monthly weighted average prices of Korean exports of the goods to Australia, expressed in AUD per tonne.

¹¹ That is, a decrease in the order of 12 per cent between the original investigation period and the review period based on data submitted by OneSteel on Korean domestic prices.

¹² REP 223, p. 43.

The applicant also observed a strong correlation between movements in the price of steel scrap and the export price to Australia.

OneSteel provided a chart of Korean scrap prices obtained from a subscription service expressed in AUD per tonne.

3.3.6 The Commission's assessment of claim regarding change in the export price

The ascertained export prices in respect of Korean exporters in REP 223 are expressed in South Korean Won. As such, the Commission considers that it is more appropriate to measure the change in the export price in South Korean Won. When analysed in this currency, the data submitted by OneSteel regarding Korean exports of the goods to Australia suggests a significant decrease in the export price of the goods.¹³

Other data before the Commission, including the Department of Home Affairs database suggests a similar decrease in the export price.

The Commission considers that OneSteel 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 export price of the original investigation and its revised export price 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.

3.4 Assessment of application — compliance with sections 269ZB and 269ZC

Based on the Commission's analysis in section 3.3, the Commission is satisfied that the application complies with subsections 269ZB(1) and (2). In addition, there appear to be reasonable grounds for the applicant to assert under subsection 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).

¹³ That is, a decrease in the order of 24 per cent between the original investigation period and the review period based on Korean exports of the goods.

3.5 Conclusions and recommendations

The Commission has considered the application in accordance with sections 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the application and other relevant information, that:

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

The Commission recommends that the Commissioner:

- not reject the application and initiate a review into the current anti-dumping measures applying to exports of the goods from Korea; and
- the review period be set as 1 January 2017 to 31 December 2017.

4 APPENDICES

Confidential Appendix 1	OneSteel's analysis of Korean domestic prices of H beams as evidence of a change in the normal value.
Confidential Appendix 2	OneSteel's analysis of Korean export prices as evidence of a change in the export price.
Confidential Appendix 3	OneSteel's analysis of scrap prices denoted in South Korean Won.
Confidential Appendix 4	The Commission's analysis of: export prices based on the Department of Home Affairs database and information submitted by OneSteel; and normal value based on OneSteel's application and other information before the Commission.