

OneSteel Manufacturing Pty Ltd
(Administrators Appointed)
ABN 42 004 651 325

Level 6, 205 Pacific Highway, St Leonards
NSW 2065
Locked bag 3050 NSW 1570, Australia

P 02 8424 9800
F 02 8224 9885



25th May 2016

Director
Operations 5
Anti-Dumping Commission
BY EMAIL operations5@adcommission.gov.au

Public File

Dear Director,

Hot Rolled Structural Steel Sections exported from Japan, the Republic of Korea, Taiwan and the Kingdom of Thailand

Initiation of a Review of Anti-Dumping Measures Relating to Tung Ho Steel Enterprise Corporation and Siam Yamato Steel Co., Ltd.

OneSteel Manufacturing Pty Ltd ("OneSteel") is an interested party and seeks to raise a number of important matters in relation to the *Review of Anti-Dumping Measures relating to Siam Yamato Steel ("SYS"), EPR346, and Tung Ho Steel Enterprise Corporation ("Tung Ho"), EPR345.*

Background.

OneSteel is the only Australian manufacturer of Hot Rolled Structural Sections of steel producing the goods at its facility in Whyalla, South Australia. On the 26th August 2013 OneSteel lodged an application requesting that the Minister publish a dumping duty notice in respect of Hot Rolled Structural Sections exported from Japan, Korea, Taiwan and Thailand.

Based on the findings and recommendations of the Commission's investigation, the Minister imposed measures on the 20th November 2014 on exporters from Japan, Korea, Taiwan and Thailand.

The Commission is aware that SYS are recidivist dumpers into the Australian market. In 2002 measures were imposed on SYS based on the recommendations of anti-dumping investigation REP 55.

Shortly after the 2002 measures were imposed, SYS also sought a "Review of Measures" which resulted in the interim dumping duty being assessed as zero, except where the export price of any importation of HRS was less than the ascertained export price. This effectively operated as a floor price to ensure that SYS were unable to re commence dumping unimpeded into the Australian market.

Tung Ho were not an exporter to Australia in 2002 and were not involved in investigation 55.

Matters relating to SYS' Application for Review of Measures (EPR346)

During the 2013 investigation 223, SYS was identified as the exporter dumping by the greatest margin and the Minister imposed dumping duties of 19.48%. Following an appeal to the Anti-Dumping Review Panel ("ADRP") the dumping duties were lowered slightly to 18.28%.

OneSteel alerts the Commission to the fact that the recent SYS export behaviour indicates that SYS have embarked on a deliberate short term strategy to nullify *ad valorem* dumping measures within 16 months of the imposition of duties.

Export data in the confidential table shows that since the imposition of measures in November 2014, SYS have only exported to Australia small volumes of the goods (approximately [REDACTED] tonnes) at relatively high prices. This in turn inflates the ascertained export price ("AEP") during the review period and in turn generates a negative dumping margin that allows SYS to request a review of measures with the aim of reducing their dumping margin of 18.28% to zero.

Presumably, SYS would have been able to seek a refund of interim dumping duties paid on the low export volumes via a *Final Duty Assessment*.

Table 1. Export of Hot Rolled Structural sections – prices in AUD

[The whole of Table 1 is considered CONFIDENTIAL]

Source : [REDACTED]

OneSteel submits that if, as a result of this *Review of Measures* inquiry the Commission determines a *de minimis* dumping margin, it must impose a floor price based on the Ascertained Export Price ("AEP") of the goods used to calculate the *de minimis* dumping margin. Failure to do so encourages the out-right exploitation of the anti-dumping system - when *ad valorem* measures are imposed - by exporters highly motivated to dump excess steel capacity into Australia, thereby materially injuring the domestic industry.

Other Comments in relation to SYS claims concerning the revised dumping margin.

1. Model Comparison.

In its application, SYS states that

“The methodology adopted by the Commission with respect to the findings reached in the final report No.223 are fully respected:

- *The model comparison between normal value and export value is upheld”*

OneSteel submits that it is critical that the Commission carefully reassess its model matching analysis based on:

- the different mix of grades that were exported and sold domestically during the Review Period compared to the mix of grades in the original Investigation Period.
- the Commission’s original investigation team’s error in model matching domestic and export sales based on a limited number of test certificates rather than assessing the standards (models) the goods are produced to. The central purpose of the test certificate is to provide traceability and compliance with the chemical and strength requirements required by the standard (model). Test certificates should always demonstrate results exceeding (or least equaling) the minimum requirements of the standard, otherwise they would clearly not comply. If the Commission is to maintain a position of comparing test certificates to assess different models, then it is incumbent on the Commission to compare all the test certificates sold during the review period for the domestic and export goods. An opportunity to provide the Commission with a full further briefing on this matter is expressly sought.

The Commission is aware from SYS’s application that they have significantly increased domestic sales of SS400, a lower grade product that has significantly inferior strength and weldability characteristics compared to other Thai domestic models such as SS400/SM400 and SM 490 and is significantly inferior to exported grades such as AS/NZ 3679-300, AS/NZS 3679-350 and EN 10025 S355JR/JO/J2.

In relation to export grades to Australia, OneSteel is aware that SYS have included, if not intentionally focused (to ensure the desired review outcome) on, higher quality grades such as EN10025 S355JR¹.

To ensure fair comparison of model matching, the Commission needs to compare the models most closely resembling each other (based on Standard grade and strength specifications rather than a small sample of test requirements) during the review period and not rely on the outdated comparison of the original investigation.

2. Lasting nature of Thai normal domestic and export prices.

a. Stability of Thai domestic prices

OneSteel challenges the view that SYS’ changes to their normal value and export prices are lasting in nature. Although OneSteel acknowledges that a lower scrap price has provided SYS

¹ Refer confidential attachment 1.

with the ability to lower its domestic prices during the Review Period, these low domestic prices are unlikely to be sustainable for several reasons.

Firstly SYS themselves acknowledge that scrap prices are rising in 2016. In an attempt to deflect the fact that increasing costs will impact their domestic pricing policy, SYS admit they are effectively prepared to dump by selling below their full CTMS.

“Although scrap prices are increasing in 2016 this does not affect the pricing policy on the domestic market which is to maintain prices, to ensure that the trends in the increased consumption of section steel in the construction sector continues.”

The other main reason why low domestic prices are unlikely to be of a lasting nature is that on the 4th of February 2016, Thailand imposed *Safeguard Measures*² on alloyed Hot Rolled Structural Sections. This action was initiated by SYS and should allow them to regain some of the 35,000 tonnes of market share previously lost to China as well as allow them to increase their domestic prices.

b. Stability of Thai export prices.

OneSteel also challenges the view that SYS current export behaviour is likely to be of a lasting nature. SYS claim that they are

“focusing on a better and flexible service to end users to improve value added. The support to end users is also being developed by sending smaller lots...”

However the sending of smaller lots in containers to Australia is only likely to continue if SYS retain a relatively high dumping margin. The Commission only needs to look to SYS' recent export history to New Zealand as shown in Table 2 below to appreciate that this claim is disingenuous.

The historical export data shows that prior to the imposition of dumping measures in Australia, SYS traditionally sold HRS at a higher price to New Zealand than it did to Australia. In the absence of effective dumping measures it is expected that SYS will revert back to exporting significant volumes into the Australian market at prices lower than those to New Zealand.

² Non Confidential Attachment 2

[The whole of Table 2 is considered CONFIDENTIAL]

Table 2 – Thailand exports of HRS to Australia and New Zealand –USD/T

Source [REDACTED]

OneSteel submits that SYS' only export strategy to Australia post the implementation of measures, has been to target small volumes at a high price in order to reduce their dumping margin via a *Review of Measures* inquiry. If the Commission allows this to occur it will demonstrate how susceptible to manipulation *ad valorem* measures are even if they are initially imposed at relatively high rates.

Matters relating to Tung Ho's Application for Review of Measures (EPR345)

Following *Dumping Investigation No. 223* dumping duties of 2.2% were imposed on Tung Ho.

In their Review of Measures application, Tung Ho advise that since the imposition of measures in November 2013, that

THS [Tung Ho] have implemented internal controls whereby THS have procedures in place, to ensure export price offered to Australia is benchmarked against current domestic prices to ensure export price offered to Australia is benchmarked against current domestic prices to ensure export price remains above domestic price for like models.

If this has indeed happened, then it demonstrates that during the review period the measures have been important and effective in preventing the injurious effects of dumping previously

caused by Tung Ho. However the fact that Tung Ho only implemented these internal controls after measures were imposed in November 2014, also demonstrates the need for ongoing measures to apply. Tung Ho acknowledge that

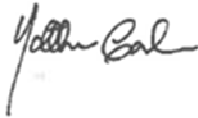
International market influences continue to impact THS's Normal Values compared to Export Prices

If as a result of this *Review of Measures Inquiry No. 345* the Commission determines a *de minimis* dumping margin, it must impose a variable rate of duty based on the Ascertained Export Price ("AEP") of the goods used to calculate the *de minimis* dumping margin. Failure to do so would remove any incentive for Tung Ho to maintain its post November 2015 pricing controls and again expose the Australian industry to injury.

Tung Ho state that they are utilizing Australia's Final Duty Assessment process to refund any excess duty that they have paid. If a variable rate of duty is imposed based on the AEP and international prices fall below those of the review period, Tung Ho will still be able request final duty assessments and have duties refunded if they can demonstrate that they are not dumping based on the contemporaneous normal value.

Please do not hesitate to contact us if you have any questions in relation to this submission.

Kind Regards



Matt Condon
Manager Trade Development