

21 May 2013

Mr G Gleeson
Director, Operations 3
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
Canberra
Australian Capital Territory 2601



commercial+international

By email

Dear Sir

Hyundai Steel Company - hot rolled coil from Korea

Reinvestigation of anti-dumping findings by Australian Customs

A Introduction

We write on behalf of Hyundai Steel Company ("Hyundai Steel") in relation to the reinvestigation concerning hot-rolled coil ("HRC") exported to Australia from Korea.

At the recommendation of the Trade Measures Review Officer ("TMRO"), the Minister has directed Australian Customs and Border Protection Service ("Customs") to reinvestigate certain findings in relation to the decision to publish a dumping duty notice.

The Minister's directions are set out in ACDN 2013/30.

In particular, regarding Hyundai Steel, the Minister has directed Customs to reinvestigate:

the calculation of the dumping margin for Hyundai Steel, in order to correct apparent errors in it

On 14 May 2013, Customs provided Hyundai Steel with a set of spread sheets relating to a recalculation of the dumping margin for Hyundai Steel which Customs had presented to the TMRO during the course of his review. This recalculation was necessary, in Customs' view, to rectify certain errors in the calculation of the dumping margin for Hyundai Steel, such errors having been identified after the publication of Report 188.

The recalculation suggests that Hyundai Steel's dumping margin is 2.7%.

Hyundai Steel thanks Customs for providing it with the spread sheets setting out its recalculations, and welcomes the opportunity to now provide further comment regarding those margin calculations.

Having reviewed the spread sheets, Hyundai Steel wishes to advise Customs:

NON-CONFIDENTIAL VERSION

- that it **agrees** with the findings stated at lines 3 to 6 of the worksheet “Explanation” under the “Final report and corrected final report calculations” spread sheet;
- that it **disagrees** with the revised dumping margin of 2.7% stated at line 7 of that document, because it has identified further apparent errors relating to the margin calculation.

The purpose of this submission is to explain those further errors.

The rectification of these errors is necessary in terms of principle and/or “mathematics”, and is simple and straightforward to undertake. The recalculated margin using Customs’ latest margin calculation spread sheet, with the rectifications explained in this letter, lead to a final margin of **[CONFIDENTIAL TEXT DELETED – number]%**. Ultimately, the change is a minor one, but it is nonetheless the correct final margin and is important to Hyundai Steel in light of its full cooperation and committed efforts during this investigation and the subsequent procedures.

We have provided a revised domestic sales spread sheet as used by Customs in undertaking its OCOT and normal value calculations with the errors we have identified below for your reference in Attachment A **[CONFIDENTIAL ATTACHMENT]**. The revisions are highlighted for your assistance in reviewing them.

B “OCOT” determination

Hyundai Steel has discovered that there is an error in relation to the determination of the goods sold in the ordinary course of trade (“OCOT”).

In the case of certain of the Customs Product IDs, some sales were considered not to be OCOT sales - and were excluded from normal value calculation - even though the volume of the unrecoverable sales accounted for less than 20% of the total sales of the goods belonging to that Customs Product ID.

For example, this occurred in the case of the following two Customs Product IDs:

Customs Product ID	Unrecoverable sales	Total domestic sales	Proportion of unrecoverable sales during POI
[CONFIDENTIAL TEXT DELETED – product details/sales details/numbers]			

Accordingly, all domestic sales under these Customs Product IDs are OCOT sales and must be used in determining normal value.

C Domestic sales of like goods not included in working out the normal value

We note that Customs grouped Hyundai Steel’s **export sales** according to their **[CONFIDENTIAL TEXT DELETED – product characteristics]** into the following Customs Product ID grouping:

[CONFIDENTIAL TEXT
DELETED – model details]

The first part of the Customs Product ID indicates the [CONFIDENTIAL TEXT DELETED – product characteristics], such as [CONFIDENTIAL TEXT DELETED – model details] or [CONFIDENTIAL TEXT DELETED – model details]. The second part of the Customs Product ID designates the range of [CONFIDENTIAL TEXT DELETED – product characteristics] each particular Customs Product ID intends to cover. Therefore, [CONFIDENTIAL TEXT DELETED – model details] covers all of [CONFIDENTIAL TEXT DELETED – product characteristics/model details].

Accordingly, the domestic sales of goods which are “like goods” should be determined by matching the goods that have [CONFIDENTIAL TEXT DELETED – product characteristics] to the goods exported by Hyundai Steel during the POI. Therefore, provided that the goods are within the same [CONFIDENTIAL TEXT DELETED – product characteristics] range, the goods sold domestically must be considered as like goods to the exported goods for the purpose of normal value, if they are also of “like [CONFIDENTIAL TEXT DELETED – product characteristics]”. Hyundai Steel advised that according to the common practice of the industry, likeness of [CONFIDENTIAL TEXT DELETED – product characteristics].¹

¹ Hyundai Steel provided the basis of its identification of like goods by [CONFIDENTIAL TEXT DELETED – product characteristics] in its EQ and Appendices B-2 and B3 of the “Appendices Product Code Hierarchy” in its EQ response.

Hyundai Steel provided a full list of domestic sales of goods which are “like [CONFIDENTIAL TEXT DELETED – product characteristics]” and “like [CONFIDENTIAL TEXT DELETED – product characteristics]” to the goods exported to Australia in the spread sheet “Domestic sales - like goods” in its EQ response. This spread sheet was accepted by Customs and was used to calculate the normal value ultimately worked out by Customs in the spread sheet named “Domestic sales - like goods plus adjusted NV”.

In that spread sheet, the *domestic* Customs Product IDs of the like goods were grouped into the following:

[CONFIDENTIAL TEXT
DELETED – model details]

Therefore, the Customs Product ID classifies the domestic sales of like goods into the following categories of [CONFIDENTIAL TEXT DELETED – product characteristics]:

[CONFIDENTIAL TEXT
DELETED – model details]

According to this categorisation, domestic sales should be “matched” to Hyundai Steel’s Australian sales in terms of **[CONFIDENTIAL TEXT DELETED – product characteristics]** as follows:

Export	Domestic
<p>[CONFIDENTIAL TEXT DELETED – model details]</p>	

However, we note that when working out the normal value for Hyundai Steel’s Australian sales, the Hyundai Steel domestic sales which were assigned a Customs Product ID of “Other” were excluded. This is so despite that the goods included in “Other” are also like goods to the goods exported by Hyundai Steel to Australia during the POI in terms of **[CONFIDENTIAL TEXT DELETED – product characteristics]**. As a result, the normal values were worked out based on only some of the domestic sales of like goods whereas other domestic sales of like goods were excluded.

The TMRO indicated in his report that, in his view, Customs could treat identical goods to those exported as like goods, and could also include goods with “*characteristics closely resembling*” the exported goods as like goods for normal value calculation and margin determination. However it does not follow that an investigating authority can exclude goods which are within the “basket” that the investigating authority has identified as having such closely resembling characteristics. For reasons unknown to us, that appears to have been done in this case in relation to domestic sales of products which were assigned a classification of “Other” but which have the same **[CONFIDENTIAL TEXT DELETED – product characteristics]** of those that were included in that “basket”.

In summary - domestic sales of like goods that were arm length transaction and in the ordinary course of trade must not be excluded from the “universe” of normal value.

Therefore, Hyundai Steel submits that domestic sales of like goods included under “Other” which comply with the characteristics used for the relevant Customs Product ID groups that Customs used for normal value purposes should be put back into the universe of sales for normal value purposes. This conforms to Customs existing classification of its Customs Product IDs, by bringing back into that universe products which have the same “*characteristics closely resembling*” the exported goods as are already included in the universe.

We provide a table at Attachment B **[CONFIDENTIAL ATTACHMENT]** to demonstrate the corrected like goods matching of domestic sales **[CONFIDENTIAL TEXT DELETED – product characteristics]** of

goods Hyundai Steel exported to Australia during the POI, as well as the basis for such matching. The OCOT determination must also be conducted in relation to the extended Customs Product IDs which include the corrected universe of like goods.

D Constructed normal value

In calculating dumping duty for Hyundai Steel's Australian sales of [CONFIDENTIAL TEXT DELETED – model details] of goods, Customs constructed the normal value based on the “cost to make and sell” the goods plus an amount of profit. The amount of profit is worked out using the domestic sales of all like goods in ordinary course of trade, and is stated as [CONFIDENTIAL TEXT DELETED – number]%.

The calculation of this profit amount is also affected by correction of the errors mentioned above. Hyundai Steel notes that correction of the above errors decreases the profit amount to [CONFIDENTIAL TEXT DELETED – number]%.

E Conclusion

Hyundai requests that Customs rectify the errors identified above in the current reinvestigation.

According to Hyundai Steel's calculation, rectification of these errors results in a final dumping margin of [CONFIDENTIAL TEXT DELETED – number]%.

Hyundai Steel respectfully requests Customs to recommend to the Minister that the dumping measures in place against Hyundai Steel's exports to Australia be revised to reflect this final dumping margin.

Yours sincerely



Charles Zhan
Solicitor