



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS
NO. 465

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
CERTAIN HOT ROLLED STRUCTURAL STEEL SECTIONS**

EXPORTED FROM THE REPUBLIC OF KOREA

30 July 2018

SEF 465 Hot Rolled Structural Steel – The Republic of Korea

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ABBREVIATIONS

ABF	Australian Border Force
ADN	Anti-Dumping Notice
The Act	<i>Customs Act 1901</i>
The applicant	OneSteel Manufacturing Pty Ltd
the Assistant Minister	the Assistant Minister for Science, Jobs and Innovation
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dragon Steel	Dragon Steel Corporation
EPR	Electronic public register
FOB	Free On Board
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Hyundai	Hyundai Steel Company
Korea	The Republic of Korea
NIP	Non-injurious price
OneSteel	OneSteel Manufacturing Pty Ltd
REP 223	<i>Anti-Dumping Commission Report No. 223</i>
the review period	1 January 2017 to 31 December 2017
SEF	Statement of Essential Facts
SYS	Siam Yamato Steel Co. Ltd
Thailand	The Kingdom of Thailand
Tung Ho	Tung Ho Steel Enterprise Corporation
USP	Unsuppressed selling price

1 SUMMARY

1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Assistant Minister for Science, Jobs and Innovation (the Assistant Minister)¹ in relation to a review of the anti-dumping measures (in the form of a dumping duty notice) applying to certain hot rolled structural steel sections² (HRS or the goods) exported to Australia from the Republic of Korea (Korea).

This review of measures is in response to an application from OneSteel Manufacturing Pty Ltd (referred to as the applicant or OneSteel) for a review of the anti-dumping measures applying to HRS exported to Australia from Korea.

The application for review is based on a change in the variable factors³ relevant to the taking of the anti-dumping measures in relation to exporters from Korea. The variable factors are the normal value, export price and non-injurious price (NIP). The applicant claims that the normal value and export price of the goods have changed since last ascertained, as a result of the original investigation.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)⁴ sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for review of anti-dumping 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.⁵

The Commissioner must, within 110 days after the publication of the notice or such longer period as allowed, place on the public record a statement of the essential facts (this SEF) on which the Commissioner proposes to base his recommendation to the Assistant Minister in relation to the review of measures.⁶

¹ 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. For the purposes of this review the Assistant Minister is the relevant decision maker.

² Refer to section 3.3 of this report for a full description of the goods.

³ Subsection 269T(4E).

⁴ All legislative references are to the *Customs Act 1901*, unless otherwise specified.

⁵ Subsection 269ZC(4).

⁶ Subsection 269ZD(1).

1.3 Preliminary findings

The Commissioner finds that, in relation to exports to Australia of HRS made by all exporters of the goods from Korea during the review period (1 January 2017 to 31 December 2017):

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the ascertained NIP should be set equal to the ascertained normal value, meaning that the ascertained NIP has changed.

1.4 Proposed recommendation

The Commissioner proposes to recommend to the Assistant Minister that the dumping duty notice have effect as if different variable factors (being the export price, normal value and NIP) had been ascertained in respect of:

- Hyundai Steel Company (Hyundai), who participated in the review; and
- uncooperative and all other exporters from Korea.

2 BACKGROUND

2.1 Application and initiation

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.

Following consideration of the application, the Commissioner decided not to reject the application and initiated a review of the anti-dumping measures applying to HRS exported to Australia from Korea. Notification of the initiation of the review was made in Anti-Dumping Notice (ADN) No. 2018/44, which was published on the Anti-Dumping Commission’s (the Commission’s) website on 19 March 2018.

Consideration Report No. 465 (CON 465) was published on the Commission’s website and provides the reasons for not rejecting the application.

On 2 July 2018, the timeframe for publishing the SEF and final report was extended under subsection 269ZHI(3) to enable the verification of information provided by interested parties to be finalised. Notification of this extension was made in ADN No. 2018/107.

Further details are available on the Commission’s website at www.adcommission.gov.au.

2.2 Existing measures

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, as outlined in *Anti-Dumping Commission Report No. 223 (REP 223)*,⁷ it was found that:

- the goods exported to Australia from Japan, Korea, Taiwan and Thailand were dumped, with margins ranging from 2.20 per cent to 19.48 per cent;
- 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
	Uncooperative Exporters	12.23%	Ad valorem	
	Hyundai Steel Company	2.52%	Ad valorem	

⁷ See Electronic Public Record (EPR) 223 Item 096.

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Korea	Uncooperative Exporters	3.24%	Ad valorem	normal values over the investigation period in terms of s. 269TACB(2)(a) of the <i>Customs Act 1901</i> .
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% ⁸	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 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 ADN No. 2014/127 on 20 November 2014.⁹

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 per cent to 18.00 per cent with effect from 20 November 2014.

2.3 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 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

⁸ 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>.

⁹ See EPR 223, item 098.

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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.

2.4 Current review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for,¹⁰ or the Assistant Minister may request that the Commissioner conduct,¹¹ a review of those measures if one or more of the variable factors has changed.

The Assistant Minister may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the dumping duty notice or countervailing duty notice or the notice(s) declaring the outcome of the last review of the dumping or countervailing duty notice.¹²

If an application for a review of anti-dumping measures is received and not rejected, the Commissioner has up to 155 days, or such longer time as allowed, to conduct a review and report to the Assistant Minister on the review of the anti-dumping measures.¹³

During the course of a review, the Commissioner will examine whether the variable factors have changed.

Variable factors in this particular review are a reference to:

- the export price;
- the normal value; and
- the NIP.

Within 110 days of the initiation of a review, or such longer time as allowed, the Commissioner must place on the public record a SEF on which he proposes to base his

¹⁰ Subsection 269ZA(1).

¹¹ Subsection 269ZA(3).

¹² Subsection 269ZA(2)(a). This last occurred on 19 October 2016.

¹³ Subsection 269ZDA(1).

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recommendations to the Assistant Minister concerning the review of the anti-dumping measures.¹⁴

In making recommendations in his final report to the Assistant Minister, the Commissioner must have regard to:¹⁵

- the application for review of the anti-dumping measures;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- this SEF; and
- any submission made in response to this SEF that is received by the Commissioner within 20 days of it being placed on the public record.

The Commissioner may also have regard to any other matter considered to be relevant to the review.¹⁶

At the conclusion of the review, in respect of the dumping duty and countervailing notice, the Commissioner must provide a final report that makes a recommendation to the Assistant Minister that the dumping duty notice and countervailing duty notice:¹⁷

- remain unaltered; or
- have effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.

Following the Assistant Minister's decision, the Assistant Minister must give notice of the decision.¹⁸

2.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Assistant Minister.

The SEF represents an important stage in the review as it informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner. The final report will recommend whether or not the dumping duty notice should be varied, and the extent of any interim duties that are, or should be, payable.

Interested parties are invited to lodge written submissions in response to this SEF no later than **20 August 2018**.¹⁹ The Commissioner is not obliged to have regard to any

¹⁴ Subsection 269ZD(1).

¹⁵ Subsection 269ZDA(3)(a).

¹⁶ Subsection 269ZDA(3)(b).

¹⁷ Subsection 269ZDA(1)(a).

¹⁸ Subsection 269ZDB(1).

¹⁹ The due date is 19 August 2018, but as this is a Sunday, the effective due date is the following business day.

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submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Assistant Minister.²⁰

The Commissioner must report to the Assistant Minister on or before **11 September 2018**.

Submissions should preferably be emailed to investigations3@adcommission.gov.au.

Alternatively, submissions may be sent to fax number +61 3 8539 2499, or posted to:

The Director – Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available on the Commission's website at www.adcommission.gov.au.

The EPR contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The EPR can be viewed online at www.adcommission.gov.au.

Documents on the EPR for this review (EPR 465) should be read in conjunction with this SEF.

²⁰ Subsection 269ZDA(4).

3 THE GOODS AND LIKE GOODS

3.1 Legislative framework

The Commissioner must be satisfied that 'like' goods to the goods the subject of the anti-dumping measures are produced in Australia.

In making this assessment, the Commissioner must first determine that the goods produced by the Australian industry are "like" to the imported goods. Subsection 269T(1) defines like goods as:

"...means goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration."

Subsection 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In accordance with subsection 269T(3), for goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of those goods must be carried out in Australia.

3.2 The goods subject to the anti-dumping 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 130 mm and less than 650 mm;*
- *universal columns and universal bearing piles (H sections), of a height greater than 130 mm and less than 650 mm;*
- *channels (U sections and C sections) of a height greater than 130 mm and less than 400 mm; and*
- *equal and unequal angles (L sections), with a combined leg length of greater than 200 mm.*

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).*

3.3 Tariff classification

Goods identified as hot rolled non-alloy steel sections (meeting the specified shapes and sizes set out above) are currently classified to the tariff subheading in Schedule 3 of 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).

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*.

3.4 Like goods

Subsection 269T(1) defines like goods as:

“...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.

The definition of like goods is relevant in the context of reviews, among other things, in determining the normal value of goods exported to Australia, the NIP and the goods subject to the dumping duty notice. The Commission’s framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidies Manual*.²¹

²¹ Available on the Commission’s website at www.adcommission.gov.au .

4 EXPORTER AND IMPORTER INFORMATION

4.1 Findings

The Commission is satisfied that the information provided by Hyundai and Mitsubishi Australia Ltd for the purposes of this review is accurate, relevant and complete.

4.2 Exporter questionnaires and verification

The Commission provided Hyundai, the largest Korean exporter, with an exporter questionnaire to complete and conducted an on-site verification of the information provided. An exporter questionnaire was also placed on the Commission's website.

The Commission is satisfied as to the accuracy, relevance and completeness of the data provided by Hyundai following exporter verification.

The exporter verification report is available at the Commission's website at www.adcommission.gov.au.

4.3 Importer questionnaires and verification

The Commission performed a search of the Australian Border Force's (ABF) import database and identified importers of HRS from Hyundai during the review period.

An importer questionnaire was sent to the two largest importers of HRS (by volume) for the review period. One importer verification visit was conducted in respect of Mitsubishi Australia Ltd.

The Commission is satisfied as to the accuracy, relevance and completeness of the data provided by Mitsubishi following importer verification.

The importer verification report is available at the Commission's website at www.adcommission.gov.au.

5 VARIABLE FACTORS – DUMPING DUTY NOTICE

5.1 Findings

The Commissioner finds that the variable factors relevant to the taking of anti-dumping measures in relation to HRS exported to Australia by Hyundai have changed.

The Commissioner recommends to the Assistant Minister that the dumping duty notice have effect in relation to Hyundai as if different variable factors, the export price, the normal value and the NIP, had been ascertained.

The Commissioner recommends to the Assistant Minister that the dumping duty notice have effect in relation to uncooperative and all other exporters from Korea as if different variable factors, the export price, the normal value and NIP, had been ascertained.

5.2 Model matching

5.2.1 Commission's approach in the original investigation

In REP 223, the Commission looked at a number of model-matching factors and considered them on an exporter by exporter basis including:

- mechanical and chemical properties set out in the relevant standards;
- actual physical specifications of the goods;
- steel grades of HRS sold in the exporter's domestic market;
- production processes, in particular, whether goods were produced from the same semi-finished product, for example blooms; and
- cost and selling price information.

Hyundai was the sole exporter from Korea that cooperated with the original investigation. The following model matching criteria, which was developed by Hyundai, was applied by the Commission:

1. The model (shape): identifying whether the product is shaped as a H beam, Channel or Angle. Three codes (A, B and C) denoted this feature.
2. Grade Code: grade code A relates to goods with a tensile strength of less than 400 MPa; Grade Code B relates to goods greater than or equal 400 MPa and less than 450 MPa; Grade Code C refers to goods greater than or equal to 450 MPa and less than 500 MPa; and Grade Code D to goods greater than or equal to 500 MPa. The strengths referred to are *minimum* tensile strengths.
3. Dimension: this characteristic identifies the web height. Code A denoted goods with a web height less than 230 mm; and Code B described a web height greater than or equal to 230 mm.

Under Hyundai's model matching criteria, exports of HRS to Australia that are certified to Grade G300 fall within Grade Code B. The Korean SS400 grade sold on the Korean domestic market falls in the same grade group as the Australian G300 grade, however, the Korean SM490 grade falls within Grade Code C. As such, the model matching criteria

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applied in respect of Hyundai are consistent with the Commission's overall finding in REP 223 that the SS400 grade was the most comparable grade to the Australian grade and therefore the closest subset of like goods for calculating normal values.

While the SS400 grade was found to be the most comparable grade by the Commission, where cost differences were able to be quantified, between the SS400 grade sold by exporters on their respective domestic markets and the G300 grade sold to Australia, an upwards adjustment to the normal value was applied on the basis of physical differences.

In the case of Hyundai, a physical adjustment was made for observed differences in the cost of production for the Korean domestic grades within Grade Code B and the Australian G300 grade. This cost difference, consistent with the Commission's Dumping and Subsidy Manual, was adjusted by applying Hyundai's gross profit margin on the relevant goods to the cost difference in order to work out what the estimate price effect of that cost difference was.

5.2.2 Submissions made by review participants regarding model matching

In respect of model matching, OneSteel submitted during the course of this review that:

- the Commission dealt with product grading issues incorrectly in Investigation 223 (the original investigation relevant to Review 465).
 - Grade should be defined by the Standard to which product has been produced and certified (as indicated on the test certificate), rather than assessing test results on a test certificate to decide which standard's specifications those specific results for an individual batch will meet.
- Korean grade SM490A would be a closer match to the G300 Australian grade than Korean Grades SS400 and SM400A/B, since the 400 grades do not meet the minimum yield strength, chemical composition or tensile strengths required by G300.
- Standards, rather than mill test certificate results, should be used as the basis for price comparability.

In response to OneSteel's submission, Hyundai indicated during the verification visit that:

- the SS400 grade, though not identical, was the most comparable grade;
- the yield strength required by the Korean SS400 grade increased in 2016, with effect from 1 January 2017; and
- as a result the SS400 grade now has a yield strength of 245–275 MPa, which is now closer to that of the G300 Australian standard.

5.2.3 Commission's approach to model matching in this SEF

Broadly consistent with the original investigation, Hyundai provided a coding system with three main features identified:²²

1. The model: shape identifying whether the product is shaped as a H beam, Channel, Angle or I beam. Four codes A, B, C and D denoted this feature.
2. Grade Code: Grade Code A relates to goods with a tensile strength of less than 400 MPa; Grade Code B relates to goods greater than or equal 400 MPa and less than 450 MPa; Grade Code refers to goods greater than or equal to 450 MPa and less than 500 MPa; and Grade Code D to goods greater than or equal to 500 MPa. The strengths referred to are minimum tensile strengths.
3. Dimension: this characteristic identifies the web height. Code A denoted goods with a web height less than 230 mm; and Code B described a web height greater than or equal to 230 mm.

Consideration of Hyundai's grade code classification for model matching purposes

The Commission has considered the appropriateness of Hyundai's grade code classification on the basis of a comparison between the Korean and Australian standards and costing information.

The Commission found that:

- The SM490M grade is regarded as a specialist grade in the Korean market, which attracts a price premium;
- The SM490M is sold in relatively small quantities than the SS400 grade, particularly for certain shapes;
- The SM490M grade is of a higher comparative standard than the Australian G300;
- The SS400 specifications have increased in respect of yield strength and tensile strength since the original investigation;
- The comparability of SS400 with the Australian G300 grade has been enhanced as a result of this change but remains of a lower comparative standard than the Australian standard;

²² For the current review, Hyundai identified four model classifications rather than three. The Commission has accepted this new model classification with respect to shape. The verification visit report for Hyundai contains further information regarding this matter (item 010 on the EPR).

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- A small, but material, cost difference was observed between the cost to make G300 and the other Korean domestic grades within Grade Code B, which includes grade SS400; and
- The cost difference observed between the Australian G300 grade and the Korean domestic grades within Grade Code B was far less than the cost difference observed between the cost to make the Australian G300 grade and the Korean SM490 grade.

Given the above considerations, for the purposes of this review the Commission considers that the model matching criteria in respect of Hyundai determined in REP 223 in respect of grade is appropriate for determining normal value in the present review.

In recognition of the observed differences in the cost of production between the G300 Australian grade and the Korean domestic grades within Grade Group B, an adjustment has been made for physical differences. This adjustment applies the gross margin of profit in order to estimate the price effect of the production cost difference. The Commission is satisfied that the use of this observed cost difference is an appropriate basis on which to make adjustments for fair comparison purposes consistent with subsection 269TAC(8).

5.3 Hyundai

5.3.1 Export price

The export price for exports made by Hyundai was established under:

- subsection 269TAB(1)(a) using the price paid by an importer to the exporter less transport and other costs arising after exportation in respect of direct sales to Australian customers; and
- subsection 269TAB(1)(c) as the price that the Minister determines having regard to all the circumstances of the exportation (in this case using the price paid by a trader to the exporter less transport and other costs arising after exportation).

The resulting export price for HRS exported by Hyundai has changed since the original investigation.

Details of the export price calculations for HRS exported by Hyundai are at **Confidential Appendix 1**.

5.3.2 Normal value

Normal values were established in accordance with subsection 269TAC(1), using Hyundai's domestic invoice prices for like goods, by shape, grade and size, sold in the ordinary course of trade in arms length transactions.

Adjustments to the normal value were made under subsection 269TAC(8) to ensure a fair comparison with the export price. Adjustments made for the review of measures were

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broadly consistent with the approach undertaken in respect of Hyundai as part of the original dumping investigation.²³

A summary of the adjustments is included below. Further details of these adjustments are contained in the exporter verification visit report for Hyundai, which is available from EPR 465.

Adjustment Type	Deduction/addition
Domestic credit expenses	Deduct the cost of domestic credit expense
Domestic inland freight	Deduct the cost of domestic inland freight
Domestic advertising expenses	Deduct the cost of domestic advertising expense
Merchandise difference	Add the merchandise difference
Export inland freight	Add the cost of export inland freight
Export handling & other costs	Add the cost of export handling and other costs

The resulting normal value for HRS exported by Hyundai has changed since the original investigation.

Details of the normal value calculations for HRS exported by Hyundai are at **Confidential Appendix 4**.

5.3.3 Dumping margin

The Commission compared the quarterly weighted average of export prices over the whole of the review period with the quarterly weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a) of the Act.

The Commission found a dumping margin of 9.9 per cent in respect of HRS exported to Australia by Hyundai during the review period.

Details of the dumping margin calculations for HRS exported by Hyundai are at **Confidential Appendix 5**.

5.3.4 Non-injurious price

As outlined in section 6 below, the Commission considers that the approach to determining the NIP in REP 223 remains valid for the purpose of this review.

In REP 223, the NIP was ascertained to be equal to the normal value for each exporter.

²³ In REP 223, a warehousing adjustment was applied. This adjustment has not been applied for the purposes of this review. The verification visit report for Hyundai contains further information regarding this matter (item 010 on the EPR).

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The resulting NIP for exports of HRS from Korea made by Hyundai has changed since the original investigation.

5.4 Uncooperative and all other Korean exporters

As provided for in subsection 269TACAB(1), for uncooperative exporters, export price and normal value were worked out in accordance with subsection 269TAB(3) and subsection 269TAC(6) respectively by having regard to all relevant information.

5.4.1 Export price

For uncooperative and all other Korean exporters, the Commission established export prices pursuant to subsection 269TAB(3) having regard to all relevant information by reference to export prices determined with verified information of cooperating exporters over the investigation period. The Commission used Hyundai's export price, Hyundai being the sole cooperative exporter.

The resulting export price for other exporters of HRS from Korea has changed since the original investigation.

5.4.2 Normal value

Normal values were established pursuant to subsection 269TAC(6) having regard to all relevant information by reference to normal values determined with verified information of cooperating exporters over the investigation period. The Commission calculated the normal value by removing all downward adjustments applied to Hyundai as the sole cooperative exporter.

The resulting normal value for other exporters of HRS from Korea has changed since the original investigation.

5.4.3 Dumping margin

The Commission compared the quarterly weighted average of export prices over the whole of the review period with the quarterly weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a) of the Act.

The dumping margin for uncooperative exporters of HRS from Korea is 13.9 per cent.

5.4.4 Non-injurious price

As outlined in section 6 below, the Commission considers that the approach to determining the NIP in REP 223 remains valid for the purpose of this review.

In REP 223, the NIP was ascertained to be equal to the normal value for each exporter.

The resulting NIP for uncooperative exporters of HRS from Korea has changed since the original investigation.

6 NON-INJURIOUS PRICE

6.1 General

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause material injury to an Australian industry producing like goods. The level of dumping duty imposed cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury.

Under subsection 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975*, the Assistant Minister must specify a method for calculating the IDD payable. In doing so, the Assistant Minister must, if the NIP is less than the normal value, have regard to the desirability of specifying a method of calculating the IDD such that the sum of the interim dumping duty payable and the ascertained export price is not greater than the NIP (lesser duty rule). Subsection 269TACA(a) identifies the NIP of the goods exported to Australia as the minimum price necessary to prevent the injury or a recurrence of the injury caused by the dumping.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). Deductions from this figure are made for post-exportation costs to derive a NIP that is expressed in similar delivery terms to export price and normal value (e.g. FOB).

Where the NIP is lower than the normal value, the duty is calculated with respect to the difference between export price and NIP, thereby giving effect to the lesser duty rule.

6.2 Original investigation

In Investigation 223, the Commission considered that there was no suitable method of determining the USP and so considered an alternative approach to establishing the NIP.

As such, the Commission considered that the NIP for Hyundai and other exporters, would be a price equal to the respective normal value. As such, the then Parliamentary Secretary was not required to consider the lesser duty rule.

6.3 Assessment of the NIP

The Commission considers that the approach to determining the NIP in REP 223 remains valid for the purpose of this review.

The NIP for Hyundai and the NIP for uncooperative and all other exporters has been set equal to the respective normal value, and given the findings in section 5, the NIP has changed since that last ascertained.

This means that the lesser duty rule does not come into effect and the proposed measures are linked to the full margin of dumping.

7 FINDINGS AND PROPOSED RECOMMENDATIONS

7.1 Findings

The Commissioner finds that, in relation to exports of HRS to Australia from Korea made by Hyundai and during the review period:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the ascertained NIP should be set equal to the ascertained normal value, meaning that the ascertained NIP has changed.

The Commissioner finds that in relation to uncooperative and all other exporters of HRS to Australia from Korea for the review period:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the ascertained NIP should be set equal to the ascertained normal value, meaning that the ascertained NIP has changed.

7.2 Effect of the review

The form of measures that was imposed in the original investigation was ad valorem. This form of measures applies generally to exporters of HRS from Japan, Korea, Taiwan and Thailand.²⁴

This form of measures was imposed on the basis that an ad valorem rate is more appropriate in view of the cyclical nature of the HRS market observed, which involves price fluctuations.

Consistent with the original investigation the form of measures to be imposed will be an ad valorem rate.

If the Assistant Minister accepts the Commissioner's recommendations, exports of HRS from Korea made by Hyundai will attract interim duty at the rate of 9.9 per cent.

The uncooperative and all other exporter rate for HRS exported from Korea will be set at the rate of 13.9 per cent.

A summary of the variable factors accompanies the notice at **Non-Confidential Attachment 1**.

²⁴ Exports made by Tung Ho Steel Enterprise Corporation, SYS and Dragon Steel Corporation are subject to a floor price as a result of Review 345, Review 346 and Accelerated Review 359.

8 LIST OF APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Hyundai - Export price calculation
Confidential Appendix 2	Hyundai - Cost to make and sell
Confidential Appendix 3	Hyundai – Domestic sales calculation
Confidential Appendix 4	Hyundai - Normal value calculation
Confidential Appendix 5	Hyundai - Dumping margin calculation
Confidential Appendix 6	Uncooperative and all other exports – Normal value calculation
Confidential Appendix 7	Uncooperative and all other exports – Dumping margin calculation
Confidential Attachment 1	Summary of variable factors