

19 June 2019

Director Investigations 2 Anti-Dumping Commission GPO Box 2013 Canberra ACT 2601

BY EMAIL: investigations2@adcommission.gov.au

Dear Director,

Continuation Inquiry 505 and Review of Measures 499 concerning Hot Rolled Structural Steel Sections exported from Japan, Korea, Taiwan and Thailand

SUBMISSION OF THE AUSTRALIAN INDUSTRY

ONESTEEL MANUFACTURING PTY LIMITED (Liberty Steel) alerts the Anti-Dumping Commission (Commission) to the following significant concerns regarding the current *Review of Measures* and *Continuation Inquiry* into exports of *Hot Rolled Structural Steel Sections from Japan, the Republic of Korea, Taiwan (except for exports by Feng Hsin Steel Co Ltd) and the Kingdom of Thailand* (HRS):

- Model Control Codes (MCCs) are not functioning as intended, are facilitating a process that is opaque to interested parties and resulting in errors and inconsistency in the calculation of dumping margins between exporters.
- Based on exporter submissions made to date, it is Liberty Steel's view that the Commission's interpretation, or accepted assignment by the exporters, of domestically produced grades in the countries under consideration, that are most alike to the exported grades, is incorrect.
- Establishing a correct model match is the fundamental process underpinning a correct dumping margin calculation to enable fair competition between all competitors in the market. For this reason, Liberty Steel urges the Commission to engage an independent, qualified technical subject-matter expert to conduct an assessment of the domestic grades for each of the countries involved in this matter and determine which are most alike to the export grades.

It is Liberty Steel's view that the Commission's departure from the grade match technical assessment for HRS exported from Korea, performed by the then Australian Customs Service and published in *Trade Measures Report No. 79* (2004) resulted in the errors first being established in *Dumping Investigation No. 223*. These errors have been perpetuated through subsequent Reviews and without independent technical assessment cannot reasonably be reviewed by the ADRP who are not expected to be qualified technical experts. Based on the submissions made to date by exporters in the current matters, the Commission is again being urged to follow the same erroneous grade/model match outcomes in the interests of 'consistency' with previous erroneous outcomes.

To maintain confidence in the anti-dumping system, the Commission has an obligation to all stakeholders to make evidence based decisions in each investigation, review or continuation and not perpetuate past errors. The Australian Industry urges the Commission to engage an independent,





technical subject-matter expert immediately to resolve this question in this case. Given the immovable time constraints on the Commission in the context of *Continuation Inquiry No. 505*, Liberty Steel observes that there is no reason why such an expert cannot be retained to advise on this issue in *Review No. 499*, where an extension to the Commission's obligation to report to the Minister may be obtained, and the later published report (and Notice) may be applied with retrospective effect. This approach will cure any factual errors that may not be otherwise resolved in any possible Continuation notice.

Further to the above, Liberty Steel now raises the following specific concerns in response to the *Exporter Verification Report* for Tung Ho Steel Enterprise Corporation (**Tung Ho**)¹ and the *Exporter Benchmark Verification Report* for Dragon Steel Corporation (**Dragon Steel**).²

1. <u>Model Control Codes are facilitating a model matching process that is opaque to the Australian</u> <u>Industry – grades matched are not being disclosed</u>

The introduction of MCCs by the Commission in August 2019 was generally, albeit cautiously, supported by the Australian Industry in an effort to improve the model matching process as a key input into the dumping margin calculation. Through the consultation process, concern was raised³ by Australian Paper (**AP**), BlueScope Steel, Capral and Liberty Steel that the assessment by the ADC of which grades/models fit within a given MCC category may not be correct and without disclosure, would not afford the Australian industry the transparency required to either support or challenge the model matching approach of the ADC.

Australian Paper noted:

AP is generally supportive of the introduction of structures which contribute to further efficiency, accuracy and relevance of model matching within the Commission's policy. However, it should be noted that AP holds some reservations in regards to procedure through which defining and assessing the relevance of models will occur, and by extension the potential outcomes of the proposed MCC.

BlueScope Steel noted:

We believe that the introduction and strict adherence to properly designed Model Control Codes for cost and sales data will address the standard exporter strategy to hide from public scrutiny the critical aspects of correct model matching and as a result boost Australian industry confidence in this part of the investigative analysis.

Capral noted:

The absence of information concerning the exporter's domestic models used for model matching purposes does not enable the applicant industry to comment on whether the selected model nominated by the exporter as comparable with the exported goods is a reasonable basis for comparison. The need for full disclosure of the exporter's applicable MCC's for model matching purposes is therefore a critical procedural element of the investigation process.

Liberty Steel noted:

In any event, the exporter should identify the model/product code it claims belongs to a particular MCC structure code. This will permit interested parties to properly interrogate the MCC structure claimed, and the Commission may more readily ensure that domestic and export sales are properly applied to the claimed MCC structure code.

Categories such as shape and size are not generally contested in the course of anti-dumping investigations relating to steel products but the steel grades in question are commonly and

¹ EPR Folio No. 499/019

² EPR Folio No. 499/022

³ Anti-Dumping Notice No. 2018/128 – Submissions received in response to Anti-Dumping Notice No. 2018/77



rigorously contested as price typically varies based on the grade of steel being sold. If the steel grade being exported is a high strength grade, as defined by the mechanical properties of the Standard to which it is produced, it will always be in the exporter's best interests to convince the ADC that a lower strength domestic grade is an appropriate match (to the, typically, higher grades exported to Australia) in order to secure the best dumping margin outcome. Since the introduction of MCCs, grades matched are no longer disclosed and thus, no longer open for discussion or criticism. Interested parties must simply accept that the ADC has performed adequate checks to ensure the exporter's categorisation of grades has been correct. Grades produced by a given exporter commonly appear on the exporter's website, making allegations by the exporter that disclosure of the grade names selected by the ADC is confidential or would adversely affect its commercial interests, is frankly, unfounded, given that disclosure of volume or pricing information in relation to those grades is never required.

In the absence of disclosure of grades sold domestically by the exporters and selected by the ADC as the most appropriate grades to match, the Australian industry and all interested stakeholders are denied procedural fairness.

For example, in a scenario where a steel model match includes a mandatory category of minimum yield strength (commonly used to designate steel grades) with a Category A and Category B defined, when the exporter claims all domestic sales have been for grades in Category B when their website shows a number of domestic grades that firmly belong in Category A, there is a distinct lack of clarity for the Australian industry and other exporters.

- Did the exporter really have no sales of Category A product at all through the period?
- What checks did the ADC perform to establish that the all the grades nominated as Category B grades have been correctly categorised?
- On what basis has the exporter categorised the grades as Category B? Was it the appropriate steel Standard which was required to have been referenced?
- Which grades have been deemed by the Commission to be most comparable to the export grade under consideration?

The International Trade Administration of the United States demonstrates in the 2017 "Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium" the necessary level of scrutiny that is required to be applied by an investigating authority in relation to exporter reporting of model matching criteria and the impact that errors in classification of control numbers (CONNUMs) can have on investigation outcomes.

"the Department's verification of NLMK Belgium's CONNUM reporting confirmed that numerous, significant errors had been made by NLMK in its reporting of chromium, yield strength, and heat treatment. Thus, a detailed examination of NLMK Belgium's response, at verification, fully uncovered the fact that its CONNUM reporting was significantly deficient with respect to the Department's CONNUM characteristics for multiple products and multiple CONNUM characteristics."⁴

"At verification, we found that NLMK Belgium had misreported the chromium content, yield strength, and heat treatment for certain CONNUMs produced by NLMK Clabecq, affecting approximately two percent and 30 percent of the CTL plate that it sold by weight in the home market and the United States during the POI, respectively. It also used these incorrect data in compiling the reported control numbers. Although NLMK Belgium attempted to provide corrected information in a supplemental questionnaire and during verification, we did not accept it because the changes: 1) constituted untimely-submitted new factual information; and 2) were not minor."⁵

⁴ Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium: A-423-812 (29 March 2017) at Pg 61.

 $^{^{\}rm 5}$ lbid. at Pg 54



"While NLMK Belgium argues that the errors were unintentional, the fact remains that <u>errors in a factor</u> <u>as fundamental as the control number invalidates all the allocations, matches, and calculations that</u> <u>follow</u>."⁶ [emphasis added]

"<u>The ability to make accurate product comparisons goes to the heart of the Department's dumping</u> <u>methodology</u>. Because NLMK Belgium's errors affected a substantial portion of its U.S. and home market sales listing, as well as its COP database, we are unable to make accurate product comparisons, or conduct an accurate sales-below-cost test, for NLMK Belgium, thereby compromising the integrity of its reported data as a whole."⁷ [emphasis added]

The report concludes:

"We agree with the petitioner that this <u>systemic error renders the entire dumping calculation</u> <u>inaccurate, because the control number is fundamental to the Department's calculation, as it controls</u> <u>the allocation of costs and determines the product matches between the U.S. and home markets.</u>"⁸ [emphasis added]

Without transparent disclosure of grades matched, no meaningful comments can be made by the Australian industry regarding the most fundamental element of the dumping margin calculation – a sound model match. Non-disclosure of grades only serves to protect the individual exporter interests, who have full disclosure of how grades/models have been treated within the MCC structure, from any challenge that may otherwise have been forthcoming from the Australian industry.

Other exporters in an investigation who have applied the MCC criteria correctly to their domestic and export sales are similarly disadvantaged as they may receive a higher dumping margin compared to the exporter that has had an incorrect MCC representation accepted by the Commission. This may well be the case for Dragon Steel who has been found to have a dumping margin of 9.0% compared to Tung Ho's negative 3%.

When grade matches are considered, an uninformed interested party is simply unable to defend its interests.

2. The Australian Industry's Model Control Code proposal rejected by the ADC

On request of the ADC, Liberty Steel's proposal for MCCs for hot rolled structural steel sections was provided to the ADC prior to initiation of Review of Measures 499.⁹ The ADC, at the time of publication of the initiation Notice for Review of Measures 499, disregarded Liberty Steel's representation on the importance of the MCC category of chemistry control for weldability (listed as **mandatory** category 3 following prime/non-prime and shape categories in the Liberty Steel submission) and instead assigned "weldability" as **optional** category 7 at the bottom of the list of proposed MCC codes provided¹⁰. Liberty Steel considers the continued disregard by the ADC of the importance of such a fundamental characteristic of hot rolled structural steel sections manufactured to the Australia-New Zealand Standard AS/NZS 3679.1:2016 contradictory to the fundamental concept of matching like goods to the exported goods. The intent of the model matching process is outlined in the ADC's policy document:

"In cases where different models of the goods exist, it is necessary to select the domestically sold models that are **most directly comparable to the particular models exported to Australia**. This allows for a

⁶ Ibid. at Pg 68

⁷ Ibid. at Pg 70

⁸ Ibid. at Pg 59

⁹ EPR Folio No. 499/001 Addendum to Application – Model Control Codes

¹⁰ APPENDIX 1 to ADN No. 2019/02 – Proposed Model Control Code Structure



proper comparison between the normal value and export price of the goods for the purposes of working out the dumping margin." 11

In selecting the domestically sold models that are most directly comparable to the particular models exported to Australia, the starting point needs to be the key characteristics of the exported goods – in this instance hot rolled structural steel sections likely to be made in accordance with AS/NZS 3679.1:2016.

At the briefing on 14th March 2019, attended by Liberty steel staff and ADC staff in preparation for the exporter verification visits, Liberty Steel again demonstrated to the ADC staff the need to consider logically and at a very basic technical level the importance of this characteristic in the model matching exercise.

An extract from the Scope of AS/NZS 3679.1:2016 was supplied which states "**All grades specified in this Standard are suitable for (a) welding in accordance with AS/NZS 1554, Parts 1, 2, 5 and 7**". Steels made to this Standard require chemistry specifications to be met, not only in terms of individual elements but also overall in terms of a carbon equivalent value that is specified which takes the combined effect of other residual chemical elements into account.

It was explained that the structural steel Standards for some jurisdictions separately designate the steels as "rolled steels for general structures" and "rolled steels for welded structures". This is because, for structural steel applications, it is of utmost importance to differentiate between a steel where the chemistry is controlled to meet specific requirements so that known welding procedures can readily be used and a steel where chemistry control is not specified, rendering it suitable for bolting and fastening but unsuitable for welding unless a range of weld qualification testing is performed. This "pre-qualification" for welding is valuable to those purchasing the steel and thus those grades are likely to command a premium over grades that are not pre-qualified for welding.

3. The MCCs for Tung Ho domestic sales appear to be incorrect

Liberty Steel considers the model matching approach followed by the Tung Ho verification team to be flawed. Considering the fundamental importance of ensuring the most appropriate domestic sales are selected for comparison to the export goods, Liberty Steel is concerned about the lack of rigour that appears to have been applied in interrogating the MCC representations of sales made by the exporters.

P-C-B15-2-	P-C-B	P-C-B16-2-
P-C-B26-2-	P-H-B13-2-	P-H-B13-4-
P-H-B13-5-	P-H-B13-6-	P-H-B13-7-
P-H-B14-6-	P-H-B14-7-	P-H-B23-2-
P-H-B23-5-	P-H-B23-6-	P-H-B23-7-
P-H-B24-2-	P-H-B24-4-	P-H-B24-5-
P-H-B24-6-	P-H-B24-7-	P-I-B11-2-
P-I-B11-4-	P-I-B11-5-	P-I-B11-6-
P-I-B11-7-	P-I-B12-2-	P-I-B12-4-
P-I-B12-5-	P-I-B12-6-	P-I-B12-7-
P-I-B17-2-	P-I-B7-5-	P-I-B21-5-
P-I-B21-6-	P-I-B21-7-	P-I-B22-2-
P-I-B22-4-	P-I-B22-5-	P-I-B22-6-
P-I-B22-7-	P-I-B27-5-	

The Exporter Verification Report for Tung Ho provides the adjacent list of MCCs for the like goods sold by Tung Ho on the domestic market.

¹¹ Anti-dumping Notice No. 2018/128: Introduction of Model Control Codes – Attachment C "Policy"



	Tung Ho MCC changes - domestic models								
		Non-			Min yield strength				
	Prime	Prime		Sh	(Mpa)				
			UBT	UCTH	Channels	Angles	<265	>-265	
	Р	N	1	н	С	A	A	B	
1	X				X			X	
2	X				X			x	
3	x				X			x	
4	х				х			x	
5	х			х				x	
6	х			х				x	
7	х			х				x	
8	х			х				x	
9	х			х				x	
10	х			х				x	
11	х			х				x	
12	х			х				х	
13	х			х				х	
14	х			х				х	
15	х			х				x	
16	х			х				X	
17	х			х				X	
18	x			х				x	
19	x			X				X	
20	x			х				X	
21	х			х				х	
22	х		X					X	
23	х		X					X	
24	X		X					x	
25	X		X					x	
26	X		X					X	
27	X		X					x	
28	X		X					X	
29	X		X					X	
30	X		X					X	
31	X		X					X	
32	X		X					X	
33	X		X					X	
34	X		X					X	
35	X		X					X	
36	X		X					X	
37	X		X					X	
38	X		X					X	
39	X		X					X	
40	X		X					X	
41	X		X					X	

Liberty Steel has plotted these MCCs in a matrix and the **mandatory** minimum yield strength categorisation (**all grades** having a minimum specified yield strength of greater than or equal to 265MPa) presented by the exporter and accepted by the ADC is implausible and clearly incorrect.

Based on the mechanical properties of the structural steel grades produced by Tung Ho to the relevant Standards as listed on the Tung Ho website¹², there are <u>a number of grades</u> which, if included in the domestic steel sales MCCs ought to have been included as grades having minimum yield strength of <u>less than 265MPa</u>. These grades are highlighted in the extract below.

¹² <u>http://www.tunghosteel.com/Files/papp/400/%e5%9e%8b%e9%8b%bc%e7%89%a9%e5%8c%96%e6%80%a7%e8%a1%a8.pdf</u> also attached as Non-Confidential attachment A.



物理特性

[®] CNS、ЛS&ASTM結構用材質規範-物理	性質	(a)CNS · JIS&AS	TM Structural Steel	Specifications-Phys	ical Property		
		拉力試驗 Tensile Test 降伏強度					
田松	++/92 (4) 5#		YS:Yield St	ress(N/mm ²)			
Standard	Steel Grade		Fy:Force of Yield(kgf/cm ²) 厚度thickness(nm)				
		t≧6 t≧12 t>16					
2014354546 11143		t<12	t<16		t≦40		
空調結構用調 Specification for structural steel shapes	4002		YS:34	15~450			
(ASTM A002-11)	A352		Fy:352	0~4592			
橋棣結構用鋼	4700036		YS:	≥250			
Specification for structural steel for	Antoost		Fy:≧	2551			
Bridges	A709G50		YS:	≥345			
(ASIMA/09-11) 加納編高確度			<i>ry</i> . ≥	(3520			
低合金結構用鋼			770.	245			
High-strength low-alloy	A572G50		IS:	2520			
Columbium-Vanadium structural steel			<i>Fy.</i> ≤	3320			
(ASTM A572-07) 全生業時 円75世4回							
Carbon structural steel	A36		YS:	≥250			
(ASTM A36-08)			Fy:≥	2551			
	C31400.4		YS:	≥235			
社院会講田 6 6	SN400A	Fy: ≥2398					
Rolled steels for building structure		YS:≥235		YS:235-355 ^(b)			
(CNS 13812 G3262-103)	SN400B	Fy:≥2398 Fy:2398~3622 ^(b)					
(ЛS G3136-2012)	10000000000	VS->325	YS:≥325 YS:325~445 ^(b)				
	SN490B	Fy:≥3316		Fv:3316~4541 ^(b)			
	1.7.0	VS-250,355 ^(b)					
	SN400YB	YS:≥250 Ev:2551~3622 ^(b)					
(CNS 13812 G3262-103 附錄A)	N P CO	YS:325~445(b)					
	SN490YB		Fy:3316	~4541(b)			
	SM400A	YS:≥245 YS:≥2					
銲接結構用鋼	SM400B		Fy:≧2500		Fy:≥2398		
Rolled steels for welded structure	SM490A		YS:≧325		YS:≧315		
(CNS 2947 G3057-103)	SM490B		Fy:≥3316		Fy:≥3214		
(ЛS G3106-2008)	SM490YA		YS:≥365				
	SM490YB		Fy:≧3724		Fy:≧3622		
	SM400A-A		YS:	≥250			
(CNS 2947 G3057-103 附錄C)	SM400B-A		Fy:≥	2551			
	SM490A-A		YS:≥345	Fy:≧3520			
611.2-4-348 TIT ACE	SM490B-A		YS:345~450	Fy:3520~4592	T		
一般結構用調 Rolled steels for general structure			YS:≥245		YS: >235		
(CNS 2473 G3039-103)	SS400	Fv ≥2500		Fy:≥2398			
(ЛS G3101-2010)							
	\$235JR		YS:≥235		YS:≥225		
F	\$23530		Fy:≥2398 Fy:≥2				
F	\$275JR	VS->275 VC->/			VS->265		
熱軋結構用鋼	\$27510	YS:≥2/5 Fy:≥2806 Fy:≥2806			Fy:≥2704		
Hot rolled products of structural steels	026670	-					
(BS EN 10025-2:2004)	SECON	-	YS:≧355		YS:≧345		
Ļ	\$355J0		Fy. ≥ 5022		Fy.≥3520		
	\$450J0		YS:≧450		YS:≧430		
	Contract and a second	1. I.	Fy:≧4592		Fy: ≥4388		

A comparison of the domestic sales matrix for Dragon Steel from the recently published verification report for the exporter shows that exactly half of the domestic MCCs sold in the Taiwanese market were of the type having a minimum yield strength specification of below 265MPa. This is a more realistic representation based on the grades sold domestically in Taiwan and a likely contributor to the 12% difference between the dumping margins for Dragon Steel and Tung Ho.

PUBLIC RECORD



	Dragon St	eel Domes	tic MCCs					
		Non-					Min yield	l strength
	Prime	Prime	Shape			(Mpa)		
			UB 'I'	UC 'H'	Channels	Angles	<265	>=265
	Р	N	I	н	С	A	Α	В
1	Х			х			Х	
2	х			х			х	
3	х			х			х	
4	X			X			x	
5	x			x			x	
6	X			X			x	
7	X			x			x	
8	X			x			x	
q	x			x			x	
10	v v			Y			x	
11	× ×			Y			x	
12	× ×			X Y			x	
12	×			× ×			v	
14	×			× ×			Ŷ	
14	×			× ×			Ŷ	
15	X			X			×	
10	X			X			X	
1/	X			X			X	
18	X			X			X	
19	X			X			X	
20	X			X			X	
21	X			X			X	
22	X			X			X	
23	X			X				X
24	X			X				X
25	X			Х				х
26	Х			Х				Х
27	Х			Х				Х
28	X			Х				Х
29	Х			Х				Х
30	Х			Х				х
31	Х			Х				х
32	Х			Х				Х
33	Х			Х				х
34	Х			Х				х
35	Х			Х				Х
36	Х			Х				х
37	Х			Х				Х
38	Х			Х				х
39	Х			Х				х
40	Х			Х				Х
41	Х			х				Х
42	х			х				х
43	Х			Х				Х
44	х			х				х

Whilst there would ordinarily be no disclosure whatsoever of the domestically sold grades assessed to be the best match for the export grade (presumably AS/NZS 3679.1:2016 G300), in the case of Tung Ho, the exporter has disclosed, either of its own volition or on request of the ADC, the grades it has grouped together in its provision of domestic and export sales data information in a submission dated 6 March 2019¹³.

In the briefing of 14 March 2019 prior to the exporter verification visits, Liberty Steel explicitly objected to the grade groupings proposed by Tung Ho – it was clearly an attempt by the exporter to group lower value domestic grades with the exported grades to secure the best dumping margin outcome. An extract from the briefing is reproduced below.

¹³ EPR Folio No. 499/008



LIBERTY

Model matching : Standards comparison

Tung Ho Submission EPR499/008

steel for several str

(55400, A36, A709636 36796300, 630050, 5235/R, 5275/R, 5275/A,

ARSGA)

steel for weided st

08M, SM490YA, AS72G/50, 04, AS72G508, A992, A992M

SO, GESOLO, SESSIR,

R. 5355/2, 5450/0, 8VAH32)

- Incorrect classification of 3679G300 for welded structure, not general structure.
- SS-grades for general structure, no chemistry control required (no CE or maximums for C, Si, Mn)
- SM-grades for welding, must control chemistry (limits on elements C, Si, Mn or has CE)

[Comment on approaches to forensic examination – operationally sensitive

The above have been verified by the Commission's verification teams in the original investigation and subsequent review of measures inquiry, together with subject of numerous submissions to counter opportunistic attempts by the applicant to have higher value/cost goods compared to goods exported to Australia.

Alloy steel for building structur (SN4908, SN49080, SN490C)



The reason proffered by the exporter for the Commission to accept the proposed grade groupings is that they have "been verified by the Commission's verification teams in the original investigation and subsequent review of measures inquiry, together with subject of numerous submissions to counter opportunistic attempts by the applicant to have higher value/cost goods compared to goods exported to Australia"¹⁴ With respect, this is not a defensible reason under administrative law for the Commission to recommend the Minister perpetuate a serious factual error. The MCC Practice document states:

"The Commission will consider modifications to the MCC structure from the original investigation in subsequent reviews and continuations, where justified."¹⁵

Liberty Steel continues to advocate for accurate model matching for HRS based on facts and technical evidence, not errors and misinterpretation by technically unqualified Commission staff on critically important questions concerning model matching in these recent investigations. It should also be noted that the original investigation on HRS in 2004 found that grade SS400 (currently grouped together with Grade 300 in Tung Ho's grade group 2) was not an appropriate match for Grade 300.

¹⁴ EPR Folio No. 499/008 at Page 3

¹⁵ Anti-Dumping Notice No. 2018/128 at pg 21



Model Matching : Standards comparison

Review of Anti-Dumping Measures report into hot rolled structural steel sections from Korea, Trade Measures Report No 79 August 2004

"That review observed that the exports to Australia were grade RL and the domestic grades were SB and SK (*HK*)."

Grade	Standard	Specificat ion	Мра
RL	AS 3679.1		280 – 320
SB	KS D 3503	SS 400	215 - 245
нк	KS D 3515	SM 490A	285 – 325

"Customs found the specifications of the exported grade RL and domestic grade HK to be very similar, and considers the grade HK is the most appropriate for comparison with the exported grade RL. Customs calculated normal values using domestic sales of only grade HK."

26 Exporter visit briefing HRS Continuation 505

LIBERTY STEEL

WLIBERTY

The grade groupings proposed by Tung Ho and accepted by the Commission have a number of other anomalies which need to be reassessed:

- Plate grades for shipbuilding hulls have been included. Grade "ABSGA" is an American Bureau of Shipping steel categorised as a common strength shipbuilding steel plate. Grade "BVAH32" is a Bureau Veritas grade of high strength shipbuilding steel plate. Both of these grades are likely to be used for plate, not HRS shapes.
- Non-alloy steels have been classified as alloy steels. As the specification sheet of Tung Ho¹⁶ shows, grades SM490A, SM490B, SM490YA (and likely SM490BD and SM490BM which are presumably Tung Ho customer specific derivates of the Standard grades) should all be grouped under "Rolled steels for welded structure" together with SM400A and SM400B. Grades SN490B, and presumably SN490BD and SN490C ought to be grouped together under "Rolled steels for building structure."

相救	大大型214日 世	厚度	化學成分 Chemical Composition (%) max.					
Standard	Steel Grade	thickness (mm)	碳C	矽Si	錳Mn	磷P	硫S	硼B ^(l)
_	SM400A		0.23	-	$\geq 2.5C^{(\mu)}$	0.035	0.035	0.0008
	SM400B		0.20	0.35	0.60~1.50	0.035	0.035	0.0008
銲接結構用鋼	SM490A		0.20	0.55	1.65	0.035	0.035	0.0008
 Rolled steels for welded structure^(c) 	SM490B		0.18	0.55	1.65	0.035	0.035	0.0008
(CNS 2947 G3057-103)	SM490YA	t≦40	0.20	0.55	1.65	0.035	0.035	0.0008
(JIS G3106-2008)		40 <t≦50< td=""><td>0.0008</td></t≦50<>						0.0008
	SM490YB	t≦40	0.20	0.55	1.65	0.035	0.035	0.0008
		40 <t≦50< td=""><td>0.20</td><td>0.00</td><td>1.00</td><td>0.0008</td></t≦50<>	0.20	0.00	1.00			0.0008
建築結構用鋼 Rolled steels for building structure ^(c) (CNS 13812 G3262-103) (JIS G3136-2012)	SN400A		0.24	-	-	0.050	0.050	0.0008
	SN400B		0.20	0.35	0.60~1.50	0.030	0.015	0.0008
	SN490B	t≦40	0.18	0.55	1.65	0.030	0.015	0.0008
	40 <t≤50 0.18<="" td=""><td>0.18</td><td>0.55</td><td>1.00</td><td>0.030</td><td>0.015</td><td>0.0008</td></t≤50>	0.18	0.55	1.00	0.030	0.015	0.0008	

For a steel to be considered an "other alloy steel" (to differentiate from Stainless Steel) within the Harmonised Tariff System it requires certain levels of chemical elements to be present¹⁷. For these grades, based on specified chemical elements, they would require a <u>minimum</u> of 1.65% manganese or a <u>minimum</u> of 0.0008% boron to meet the requirements to be classified as an alloy steel. The Standards specify a <u>maximum</u> of 1.65% manganese and a maximum of 0.0008% boron ie. they are specifically required to meet chemistry criteria for non-alloy or carbon steels.

¹⁶ Non-Confidential Attachment B – Tung Ho Structural Chemical Specifications

¹⁷ Non-Confidential Attachment C – Customs Tariff Schedule 3 Notes to Chapter 72



The only steels on Tung Ho's list which could conceivably meet the requirements for an alloy steel based on the chemical element specifications for those standards are the High-strength low alloy columbium-vanadium structural steels produced to ASTM A572-07 which allow elevated levels of copper, nickel, chromium, molybdenum, vanadium and niobium and grades produced to BS EN 10025-2:2004 which allows up to 0.55% Copper (a minimum of 0.4% copper is required for an alloy steel classification).

A grade grouping exercise ought to be done on the basis of Standard technical specifications as these would form the basis for purchasing decisions by customers. Exporters have been instructed that "*Minimum yield strength refers to steel made to a standard which explicitly specifies minimum yield strength*" as per the explanatory notes contained in the Commission's APPENDIX 1 to ADN No. 2019/02 – Proposed Model Control Code Structure.

Based on the mandatory MCC category for minimum yield strength and the Tung Ho Steel mechanical property specification sheets for structural steel (and the Dragon Steel structural steel specifications¹⁸ where grades nominated by Tung Ho were not included in their specifications list), Liberty Steel proposes the following grouping of grades:

Liberty S	teel Grade Grou	ps - Minimum Y	ield Strength <265 or >=265MPa		
					Min yield
Identifier	Sub-category	Grades	Standard	Standard Description	strength MPa
Liberty Steel Identifier Sub-c 1 M 1 M Streed M These grade exceed the minimum yi strength of required for 3679G300 # 2 M Streed Streed These grade exceed the minimum yi strength of required for 3679G300 # 2 M Streed Streed Minimum yi Streed These grade exceed the minimum yi strength of required for streed Streed M Streed M <td></td> <td>\$\$400</td> <td>CNS 2473 G3039-103 and JIS G3101-2010</td> <td>Rolled steels for general structure</td> <td>235-245</td>		\$\$400	CNS 2473 G3039-103 and JIS G3101-2010	Rolled steels for general structure	235-245
		tegory Grades Standard Standard Standard Description simum Yield S5400 CNS 24/3 G339-103 and JIS G310-2010 Rolled steels for general structure A36 ASTM A36-08 Carbon structural steel Carbon structural steel y00636 ASTM A36-08 Rolled steels for welded structure SM00A CNS 2497 G3057-103 and JIS G310-2008 Rolled steels for welded structure SM400A CNS 2497 G3057-103 and JIS G310-2008 Rolled steels for building structure SM400A CNS 2497 G3057-103 and JIS G310-2008 Rolled steels for building structure SM400A CNS 1247 G3057-103 and JIS G310-2002 Rolled steels for building structure SM400B CNS 1247 G3057-103 and JIS G310-2008 Rolled steels for building structure SM400B CNS 2497 G3057-103 and JIS G310-2008 Rolled steels for building structure SM400B CNS 2497 G3057-103 and JIS G310-2008 Rolled steels for welded structure SM400B CNS 2497 G3057-103 and JIS G310-2002 Rolled steels for welded structure SM400B CNS 2497 G3057-103 and JIS G3136-2012 Rolled steels for welded structure SM400B CNS 2497 G3057-103 and JIS G3136-2012 </td <td>250</td>	250		
	y Steel Orade Strougs - Winimum Yeeld Strength 2605 OF 2-2051WF4 Fier Sub-category Grades Standard Cris Standard C	250			
1	Minimum Yield	SZ35JK	Intern Trend Stretigur S200 OF >>2003/072 Standard Standard Description CNS 2473 G3039-103 and JIS G310-2010 Rolled steels for general structure ASTM A36-08 Carbon structural steel ASTM A36-08 Carbon structural steel ASTM A36-08 Carbon structural steel CNS 2487 G3057-103 and JIS G3106-2008 Rolled steels for welded structure CNS 2487 G3057-103 and JIS G3106-2012 Rolled steels for building structure CNS 13812 G322-103 and JIS G3136-2012 Rolled steels for building structure CNS 13812 G322-103 and JIS G3136-2012 Rolled steels for building structure CNS 13812 G322-103 and JIS G3136-2012 Rolled steels for building structure RS EN 10025-2:2004 Hot-rolled products of structural steel BS EN 10025-2:2004 Hot-rolled products of structural steel AS/N2S 3679.1 Structural steel Part 1: Hot-rolled bars and sections AS/N2S 3679.1 Structural steel Part 1: Hot-rolled bars and sections CNS 2487 G3057-103 and JIS G3106-2008 Rolled steels for building structure CNS 13812 G3262-103 and JIS G3136-2012 Rolled steels for building structure CNS 13812 G3262-103 and JIS G3136-2012 Rolled steels for building structure CNS 13812 G3262-103 and JIS G3136-2012 Rolled steels for building structure AS/N42S 3679.1 Structural steel Part 1: Hot-rolled bars and section	225-235	
_	Strength < 265MPa	CN4400A	CNS 2407 C2057 102 and US C2105 2009	Dellad stable for welded structure	225, 245
		SIVI400A	CNS 2497 G3057-103 and JIS G3100-2008	Rolled steels for welded structure	255-245
		S1V1400B	CNS 12812 C2262 102 and US C2126 2012	Rolled steels for building structure	253-245
		SN400A	CNS 13812 G3262-103 and JIS G3136-2012	Rolled steels for building structure	255
		SN400BF	22 Not in Standard/Tung Ho spec		235-335
		514-0051	in North Standardy rung no spec		233.
		S275JR	BS EN 10025-2:2004	Hot-rolled products of structural steel	265-275
		S275J0	BS EN 10025-2:2004	Hot-rolled products of structural steel	265-275
		3679G300	AS/NZS 3679.1	Structural steel Part 1: Hot-rolled bars and sections	280-320
		G300S0	AS/NZS 3679.1	Structural steel Part 1: Hot-rolled bars and sections	280-320
	l l	SM490A	CNS 2497 G3057-103 and JIS G3106-2008	Rolled steels for welded structure	325
These	grades	SM490B	CNS 2497 G3057-103 and JIS G3106-2008	Rolled steels for welded structure	325
These grades exceed the minimum yield strength of 280MPa required for grades 3679G300 and 2 Minimum Yield Strength >=265MPa	SM490BD	?? Not in Standard/Tung Ho spec		325?	
	SM490BM	?? Not in Standard/Tung Ho spec		325?	
streng	um yield th of 280MPa	SN490B	CNS 13812 G3262-103 and JIS G3136-2012	Rolled steels for building structure	325-445
require	ed for grades	SN400PD	22 Not in Standard/Tung Ho spac		2752
36700	300 and	31149060	Privot in Standardy rung Ho spec		525!
		SN490C	CNS 13812 G3262-103 and JIS G3136-2012	Rolled steels for building structure	295-445
		G350L0	AS/NZS 3679.1	Structural steel Part 1: Hot-rolled bars and sections	330-360
	[A709G50	ASTM A709-11	Specification for structural steels for bridges	345
2	Minimum Yield Strength >=265MPa	\$355JR	BS EN 10025-2:2004	Hot-rolled products of structural steel	355
		S355J0	BS EN 10025-2:2004	Hot-rolled products of structural steel	355
These	grades	S355J2	BS EN 10025-2:2004	Hot-rolled products of structural steel	355
minim	um viold	C1 44003/4	CNIC 2407 C2057 402	Della data da facco dal adato atros	265
		SIVI490YA	CNS 2497 G3057-103 and JIS G3106-2008	Rolled steels for weided structure	305
roquir	ch or 33000Pa	S450J0	BS EN 10025-2:2004	Hot-rolled products of structural steel	450
				High-strength low-alloy columbium-vanadium structural	<u> </u>
		A572Gr50 (type1?)	ASTM A572-07	steel	345
				High-strength low-alloy columbium-vanadium structural	
		A572G50A (type 2?)	ASTM A572-07	steel	345
				High-strength low-alloy columbium-vanadium structural	
		A572G50B (type 3?)	ASTM A5/2-07	steel	345
		A992/A992M	ASIM A992-11	Specification for structural steel shapes	345-450
	These are plate	ABSGA	ABS (American Bureau of Shipping)	Grade A - common strength shipbuilding steel plate	
	grades for		bureau veritas qualification for	Crede AU22, blak store atthe blak still in a to be	1
1	snippuilding hulls - if	BVAH32	shippullaing	Grade Ari32 - high strength shipbuilding steel plate	1

¹⁸ Non-Confidential Attachment D – Dragon Steel HRS specifications



Note:

- 1. For export grades 3679G300, G300S0 and G350L0 included in Tung Ho's list, the most appropriate domestic models to be matched are those that meet or exceed the minimum yield strength of the export grades ie. 280MPa for G379G300 and G300S0 and 330MPa for Grade G350L0.
- 2. Each of the grades highlighted as the most appropriate domestic models for the export grades also have chemical specifications for weldability ie. Either a carbon equivalent is specified (as for the export grades to Australia) or maximum limits are specified for carbon and manganese, the two elements having the greatest effect in determining weldability based on the carbon equivalent equation:
 - 5 Carbon equivalent (CE) is calculated from the following equation:

 $CE = C + \frac{Mn}{6} + \frac{Cr + Mo + V}{5} + \frac{Ni + Cu}{15}$

- 3. In the absence of any HRS shapes produced using plate grades ABSGA and BVAH32 for shipbuilding hulls, these grades should be excluded from the analysis. If the shape criteria is met, the Standard specifications for these grades should be provided by Tung Ho for assessment and appropriate grouping against the mandatory minimum yield strength MCC category.
- 4. An independent technical comparison of the Australian export grades of HRS to the relevant Japanese Standards was performed and submitted to the Commission in the course of Investigation 223, some of the grades found to be the most appropriate match are included in the list proposed by Liberty Steel above. The submission is provided as Non-Confidential Attachment F. At the time, the Commission disregarded the assessment, claiming it was *"limited to a Standards comparison"*¹⁹ and sought to instead base their findings on batch test certificates provided by the exporters compared to the minimum export Standard requirements. The Commission is again referred to Liberty Steel's exporter briefing in the current matters where the risks of this approach are clearly outlined either test certificates must necessarily exceed the minimum Standard requirements), or the relevant domestic and export Standards must be compared.

5. MCC Changes proposed by the exporters are either not verified or not disclosed

5.1 Tung Ho's request for a departure from the Commission's proposed MCC criteria for "thickness" has been accepted by the Commission and the reason described in the exporter verification as follows:

"Tung Ho changed the 'thickness' category of the MCC for the purposes of the verification. The original MCC category for thickness has two categories: minimum cross sectional thickness less than 11mm or, greater than or equal to 11mm. Tung Ho changed this to minimum cross sectional thickness less than 12mm or, greater than or equal to 12mm to align with the Australian standard. The verification team accepted this amendment."²⁰ [Emphasis added]

This is incorrect, the original MCC categories for "thickness" were aligned with the Australian Standard, changes are a departure from the Australian Standard – extract supplied to the Commission at briefing visit on 14th March 2019 slide 12 and again below:

¹⁹ Final Report 223 at Page 31.

 $^{^{\}rm 20}$ EPR Folio No. 499/019 and EPR Folio No. 505/009 at pg 5.





The exported goods are sold and exported to the Australian Standard. The domestic sales, or like goods, are to be compared and matched to the exported goods.

Changing the parameters of the exported goods to compare and match to the domestic like goods is not the exercise required by the Australian and WTO legislation which requires like goods on the domestic market to be compared and matched to the exported goods.

Tung Ho appears to have conducted such an exercise in comparing the exported goods to domestic goods through its change to the Standard and dismissal of the importance of minimum yield strengths and weldability as essential characteristics of the exported goods.

5.2 The nature of MCC changes made by Dragon Steel to significant shape and size categories are completely confidential. Dragon Steel's exporter questionnaire response contains the following:

DSC's coding of MCC follows the following logic and rationale:

DSC follows the mandatory parameters provided in the questionnaire, plus an added code "Section," which aims to reflect the different groups of combination of height and width of the cross-section of H-section.

The added code for Section is divided into a Each of such code represents a unique "Section Designation" (for Australian sales) or "Division" (for domestic sales) under DSC's Metric Series that contains similar combinations of section height and flange width (hereinafter referred to as "the combination"). For example, Code 01 comprises Section Designation and Division and Div

Confidential Exhibit C-1.2 for the concordance table.

Whilst these changes have been accepted by the Commission, no clarity is provided to the Australian industry as to the nature of the criteria applied by Dragon Steel apart from the numbers 1 to 22 appearing as part of the MCC numbers for domestic and export sales. The benchmark verification report provides no information, stating:

"DSC provided sales and cost data in its response to the exporter questionnaire in accordance with the model control codes (MCC) structure detailed in ADN 2019/02.

DSC included mandatory MCC categories prime, shape and minimum yield strength and an additional category "Section" to reflect the different groups of combination of height and width of the cross-section of H-section. DSC stated this category has an effect on the cost of production and selling prices.²¹"

Liberty Steel again urges the Commission to settle the matter of which domestic grades in the countries of export best match the export grades through independent technical assessment. If past

 $^{\rm 21}$ EPR Folio No.499/022 and EPR Folio No. 505/013 at pg 5



grade match findings by the Commission are determined to be in error, these errors must be corrected. Liberty Steel also requests that the Commission disclose in the Statement of Essential Facts for these matters, which domestically sold steel grades for each of the exporting countries have currently been assessed to be the closest match to the export grades to allow submissions to be made by all interested parties.

FOR AND ON BEHALF OF THE AUSTRALIAN INDUSTRY APPLICANT