



*CUSTOMS ACT 1901 - PART XVB*

**STATEMENT OF ESSENTIAL FACTS**  
**NO 642**

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

**EXPORTED TO AUSTRALIA FROM  
JAPAN, THE REPUBLIC OF KOREA, TAIWAN  
(EXCLUDING FENG HSIN STEEL CO LTD, TS STEEL CO LTD,  
AND TUNG HO STEEL ENTERPRISE CORPORATION),  
AND THE KINGDOM OF THAILAND**

**29 November 2024**

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**ABBREVIATIONS**

<b>Abbreviation</b>	<b>Full text</b>
ABF	Australian Border Force
ADN	Anti-Dumping Notice
Commission	The Anti-Dumping Commission
Commissioner	The Commissioner of the Anti-Dumping Commission
CON 637	<i>Continuation Inquiry 637</i>
CTMS	Cost to make and sell
DDP	Delivered duty paid
Dragon Steel	Dragon Steel Corporation
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	Electronic public record
FOB	Free on board
the goods or HRSS	Hot rolled structural steel sections
Hyundai Steel	Hyundai Steel Company
IDD	Interim dumping duty
INV 223	<i>Investigation 223</i>
Liberty Primary	OneSteel Manufacturing Pty Ltd, trading as Liberty Primary Steel
MCC	Model control code
the measures	Anti-dumping measures applying to the goods
Minister	The Minister for Industry and Science
NIP	Non-injurious price
the notice	The dumping duty notice which imposed the anti-dumping measures
OCOT	Ordinary course of trade
Original investigation	<i>Investigation 223</i>
REQ	Response to the exporter questionnaire
REV 499	<i>Review 499</i>
Review period	1 April 2023 to 31 March 2024
ROK	The Republic of Korea
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative
SYS	Siam Yamato Steel Co Ltd
the subject countries	Japan, the Republic of Korea, Taiwan, and the Kingdom of Thailand
Thailand	The Kingdom of Thailand
TS Steel	TS Steel Co Ltd
Tung Ho	Tung Ho Steel Enterprise Corporation
USP	Unsuppressed selling price

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Proposed recommendations

The Commissioner of the Anti-Dumping Commission (the Commissioner)<sup>1</sup> has preliminarily found that the variable factors relevant to the determination of dumping duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have changed in respect of the anti-dumping measures (the measures)<sup>2</sup> applying to hot rolled structural steel sections (HRSS, or the goods) exported to Australia from Japan, the Republic of Korea (ROK), Taiwan, and the Kingdom of Thailand (Thailand) (together, the subject countries).<sup>3</sup>

The Commissioner proposes to recommend to the Minister for Industry and Science (the Minister) that the notice have effect in relation to exporters from the subject countries generally as if different variable factors had been ascertained.<sup>4</sup>

The Commissioner proposes that the rate of interim dumping duties (IDD) and duty methods in Table 1 apply from date of publication of the Minister’s decision.

Country	Exporter	Duty method and rate <sup>5</sup>	
		Current	Proposed
Japan	Uncooperative and all other exporters	12.2% Combination	15.8% Combination
ROK	Hyundai Steel	5.2% <i>ad valorem</i>	7.0% <i>ad valorem</i>
	Uncooperative and all other exporters	7.9% Combination	12.5% Combination
Taiwan	Dragon Steel	9.0% Combination	7.0% Combination
	Uncooperative and all other exporters	12.3% Combination	10.8% Combination
Thailand	SYS <sup>6</sup>	7.8% Combination	5.7% Combination
	Uncooperative and all other exporters	7.7% Combination	

**Table 1: Proposed measures resulting from this review**

<sup>1</sup> References in this report to the Commissioner relates to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

<sup>2</sup> The measures consist of a dumping duty notice (the notice).

<sup>3</sup> The variable factors relevant to the determination of duty are the export price, normal value, and non-injurious price (NIP).

<sup>4</sup> Section 269ZHF(1)(a)(iii).

<sup>5</sup> The combination fixed and variable duty method is outlined in sections 2 and 3 of the *Customs Tariff (Anti-Dumping) Regulation 2013*. The *ad valorem* duty method is outlined in section 7 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>6</sup> SYS is now considered an uncooperative exporter as part of this review. Refer to section 2.4.1.

## **1.2 Introduction**

This statement of essential facts (SEF) has been prepared in response to an application from Australian industry member, OneSteel Manufacturing Limited, trading as Liberty Primary Steel (Liberty Primary, or the applicant). Liberty Primary applied for a review of the measures because it considers one or more of the variable factors relevant to the measures have changed.

This SEF sets out the facts on which the Commissioner proposes to base their recommendations to the Minister in relation to this review.

The measures apply to all exporters from Japan, the ROK, and Thailand. The measures apply to all exporters from Taiwan, excluding:

- Feng Hsin Steel Co Ltd
- TS Steel Co Ltd (TS Steel)
- Tung Ho Steel Enterprise Corporation (Tung Ho).<sup>7</sup>

## **1.3 Background to the review (chapter 2)**

### **1.3.1 Commissioner's consideration of the application**

After considering the application, the Commissioner initiated this review on 3 April 2024 and established a review period of 1 April 2023 to 31 March 2024 (the review period).<sup>8</sup>

### **1.3.2 Conduct of the review**

The Anti-Dumping Commission (commission) is assisting the Commissioner to conduct the review, pursuant to the commission's function specified in section 269SMD of the *Customs Act 1901*.<sup>9</sup>

The Commissioner notified interested parties of the initiation of this review in ADN 2024/021, published on 3 April 2024. The exporters and importers of the goods from the subject countries were invited to provide information by completing a questionnaire relevant to the review.

The commission conducted a verification visit to Hyundai Steel's premises in the ROK in relation to its questionnaire response.<sup>10</sup>

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<sup>7</sup> Unless otherwise specified, any references to Taiwan or the subject countries in this report are taken to exclude these 3 exempt exporters.

<sup>8</sup> Anti-Dumping Notice (ADN) 2024/021 on the electronic public record (EPR) for case 642 ([EPR 642](#)), no 1. The Commissioner's consideration of the application is outlined in EPR 642, no 3.

<sup>9</sup> All legislative references are to the *Customs Act 1901*, unless otherwise specified.

<sup>10</sup> [EPR 642](#), no 10.

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In preparing this report, the Commissioner has had regard to:

- the application
- exporter questionnaire responses received from Hyundai Steel from the ROK and Dragon Steel from Taiwan
- a submission received prior to the publication of this SEF<sup>11</sup>
- further information obtained during the verification visit to Hyundai Steel
- other information as referenced in this report.

Further information on the conduct of this review is included in chapter 2 of this report.

### 1.4 Summary of preliminary findings

The Commissioner's preliminary findings and conclusions in this SEF rely on the information available at this stage of the review. The paragraphs below provide a summary of these findings, and further detail is throughout this SEF.

#### 1.4.1 Variable factors – Export price and normal value (chapter 4)

The Commissioner has preliminarily found that the variable factors of export price and normal value have changed for exporters subject to the measures.

The commission has preliminarily determined dumping margins as set out in Table 2.

Country	Exporter	Dumping margin
Japan	Uncooperative and all other exporters	15.8%
ROK	Hyundai Steel	7.0%
	Uncooperative and all other exporters	12.5%
Taiwan	Dragon Steel	7.0%
	Uncooperative and all other exporters	10.8%
Thailand	Uncooperative and all other exporters	5.7%

**Table 2: Dumping margins**

Two exporters, Hyundai Steel and Dragon Steel, provided data in a completed exporter questionnaire. The commission has used the data from these companies in assessing the export price and normal value in the review period.

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<sup>11</sup> Refer to section 2.4.2 for further details – noting that 2 submissions received close to the due date of this SEF were not considered in this SEF and will be considered in the final report.

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The commission did not receive any exporter questionnaire responses from exporters from Japan or Thailand. The commission has used the best available information in relation to exports from these countries to assess the export price and normal value in the review period.

### 1.4.2 Variable factor – Non-injurious price (chapter 5)

The commission found that the NIP has changed since it was last ascertained. Despite the NIP changing, the Commissioner proposes to recommend that the Minister not apply the lesser duty rule in this review. This is because the NIP for all exporters from the subject countries is higher than the respective normal values.

The commission calculated the by first determining an unsuppressed selling price (USP), which is representative of what the Australian industry might reasonably sell like goods for in the Australian market, absent dumped goods. The commission calculated the USP by adjusting the USP calculated as part of *Continuation Inquiry 637* (CON 637).

The commission deducted the following expenses from the USP to arrive at the NIP:

- Ocean freight and marine insurance
- Customs clearance (including brokerage)
- Port and handling
- Delivery
- Importer selling, general, and administrative (SG&A)
- Importer profit.

The commission has used the verified ocean freight, marine insurance, and customs clearance costs for Hyundai Steel to calculate the NIP for the ROK. For Taiwan and Thailand, the commission has used ocean freight and marine insurance costs recorded in the Australian Border Force (ABF) import data.

For all countries, the commission also deducted other costs including port and handling, delivery, importer SG&A, and importer profit. The commission has used verified data from *Review 499* (REV 499) for these costs. This is because there was no cooperation from any importers as part of this review.

### 1.4.3 Duty method (chapter 6)

The Commissioner proposes to recommend that the effective rates of duty be revised to reflect the export prices and normal values ascertained for all exporters from the subject countries.

The Commissioner considers the IDD payable on the goods exported from Hyundai Steel should be worked out using the *ad valorem* method, which is the same as the current method.

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The Commissioner considers the IDD payable on the goods exported from the following exporters should be worked out using the combination method, which is the same as the current method:

- Uncooperative and all other exporters from Japan
- Uncooperative and all other exporters from the ROK
- Dragon Steel
- Uncooperative and all other exporters from Taiwan
- Uncooperative and all other exporters from Thailand.

### 1.5 Responding to this SEF

The SEF may not represent the Commissioner's final views. The commission invites interested parties to make written submissions in response to this SEF for the Commissioner's consideration.

Interested parties who wish to make written submissions in response to this SEF must do so no later than **19 December 2024**, which is within 20 days after the SEF being placed on the public record.<sup>12</sup>

The Commissioner is not obliged to have regard to any 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 Minister.<sup>13</sup>

Submissions may be lodged by email to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Alternatively, interested parties may post submissions to:

Director, Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked as 'OFFICIAL: Sensitive'. A non-confidential version of the submission, marked 'PUBLIC RECORD', is required for the public record. A guide for making submissions is available on the commission's website.<sup>14</sup>

The EPR contains non-confidential submissions from interested parties, non-confidential versions of the commission's verification reports and other publicly available documents.

Interested parties should read this SEF in conjunction with other documents on the EPR.

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<sup>12</sup> Section 269ZHE(3).

<sup>13</sup> Section 269ZHE(4).

<sup>14</sup> A guide for making submissions is available [here](#).

## **1.6 Final report to the Minister**

The Commissioner was originally due to provide the final report and recommendation to the Minister by no later than 5 September 2024.<sup>15</sup>

The Commissioner is now due to provide the final report and recommendations to the Minister by no later than **10 February 2025**,<sup>16</sup> unless the Commissioner grants a further extension of time.

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<sup>15</sup> The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as allowed.

<sup>16</sup> Refer ADN 2024/044, [EPR 642](#), no 8.

## 2 BACKGROUND

### 2.1 Legislative framework

The procedures to be followed by the Commissioner in an application for a review of the measures are set out in Division 5 of Part XVB.

#### 2.1.1 Statement of essential facts

Section 269ZD(1) requires the Commissioner to publish a statement of the facts on which they propose to base their recommendations to the Minister about the review of the measures. This is referred to as the SEF.

Section 269ZD(2) requires the Commissioner, in formulating the SEF, to have regard to:

- the application
- any submissions relating generally to the review received within 37 days of the initiation of the review
- any submissions relating generally to the review that would not prevent the timely placement of the SEF on the public record.

The Commissioner may also have regard to any other matters they consider relevant.

#### 2.1.2 Final report

Section 269ZDA(1) requires the Commissioner, after conducting a review, to give the Minister a report which recommends that the relevant notice:

- remain unaltered
- cease to apply to a particular exporter or to a particular kind of goods
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained, or
- expire on the specified expiry day.

### 2.2 Application and initiation

On 12 March 2024, Liberty Primary lodged an application under section 269ZB for a review of the measures.<sup>17</sup>

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<sup>17</sup> Under section 269ZA. A non-confidential version of the application is available on [EPR 642](#), no 2.

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The Commissioner was satisfied that:

- the application complied with section 269ZB (content and lodgement requirements)<sup>18</sup>
- there appeared to be reasonable grounds for asserting that the variable factors relevant to the taking of the measures have changed.<sup>19</sup>

The Commissioner therefore decided not to reject the application and published ADN 2024/021 initiating the review on 3 April 2024.<sup>20</sup>

### 2.3 Current measures

#### 2.3.1 Imposition of measures

The measures were initially imposed by public notice on 20 November 2014 by the then Parliamentary Secretary to the Minister for Industry following *Investigation 223* (INV 223, the original investigation). The findings of INV 223 are detailed in *Anti-Dumping Commission Report 223*.<sup>21</sup>

#### 2.3.2 Current measures

Table 3 summarises the current measures.

Country	Exporter	Effective rate of IDD	Duty method
Japan	All exporters	12.2%	Combination
ROK	Hyundai Steel Company	5.2%	<i>ad valorem</i>
	Uncooperative and all other exporters	7.9%	Combination
Taiwan	Dragon Steel Corporation	9.0%	Combination
	Feng Hsin Steel Co Ltd	Exempt	Exempt
	TS Steel Co Ltd	Exempt	Exempt
	Tung Ho Steel Enterprise Corporation	Exempt	Exempt
	Uncooperative and all other exporters	12.3%	Combination
Thailand	Siam Yamato Steel Co Ltd	7.8%	Combination
	Uncooperative and all other exporters	7.7%	Combination

**Table 3: Current measures**

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<sup>18</sup> Section 269ZC(2)(a).

<sup>19</sup> Section 269ZC(2)(b)(i).

<sup>20</sup> [EPR 642](#), no 2.

<sup>21</sup> [EPR 223](#), no 96.

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Further detail about the measures can be found on the dumping commodity register on the commission’s website.<sup>22</sup>

**2.3.3 Past cases**

The commission has conducted numerous cases relating to the goods. A list of key cases is set out in Table 4.<sup>23</sup> Further details can be found on the commission’s website.

Case number	ADN number	Date published	Country	Findings
Investigation 223	<a href="#">2014/127</a>	20 November 2014	Japan ROK	Measures imposed (excluding Feng Hsin)
	<a href="#">Public Notice – Parliamentary Secretary’s Decision</a>	7 August 2015	Taiwan Thailand	Change to variable factors for Siam Yamato Steel Co Ltd
Accelerated Review 359	<a href="#">2016/097</a>	18 October 2016	Taiwan	Duty method changed for Dragon Steel Corporation
Review 345 and 346	<a href="#">2016/098</a>	19 October 2016	Taiwan Thailand	Change to variable factors for certain exporters
Review 465	<a href="#">2018/167</a>	14 December 2018	ROK	Change to variable factors for exporters from the ROK
Exemption EX0077	<a href="#">2019/153</a>	20 December 2019	Japan ROK Taiwan Thailand	Exemption granted for goods under TCO no 19104997
Review 499	<a href="#">2019/125</a>	11 November 2020	Japan ROK	Change to variable factors for certain exporters
	<a href="#">Public Notice – Minister’s Decision</a>	6 April 2021	Taiwan Thailand	Change to variable factors for certain exporters
Continuation 505	<a href="#">2019/126</a>	11 November 2019	Japan ROK	Continuation of measures for certain exporters Expiry of measures for Tung Ho Steel Enterprise Corporation
	<a href="#">Public Notice – Minister’s Decision</a>	6 April 2021	Taiwan Thailand	Continuation of measures and change of variable factors for certain exporters Expiry of measures for TS Steel Corporation
Continuation 637	<a href="#">2024/071</a>	11 October 2024	Japan ROK Taiwan Thailand	Continuation of measures Change of variable factors and duty method for Hyundai Steel Company

**Table 4: Past cases for HRSS**

<sup>22</sup> Available [here](#).

<sup>23</sup> This table excludes duty assessments.

## **2.4 Conduct of the review**

The review period for this review is 1 April 2023 to 31 March 2024. The commission invited exporters and importers of the goods to provide information relevant to this period.

### **2.4.1 Questionnaires and verification**

#### Importers

The commission identified importers from the ABF import database that imported the goods from the subject countries during the review period. The commission sent questionnaires to the following identified importers:

- Macsteel International Australia Pty Ltd
- United Steel Pty Ltd
- Southern Steel Trading Pty Ltd.

The commission also placed a copy of the importer questionnaire on the commission’s website for completion by other importers who were not contacted directly.

The commission did not receive any responses to the importer questionnaire.

#### Cooperative exporters<sup>24</sup>

The commission identified the largest suppliers of the goods from the subject countries during the review period as reported in the ABF import database. The commission identified the following exporters as being the largest exporters subject to the measures during the review period:

- Hyundai Steel
- Siam Yamato Steel Co Ltd (SYS).

The commission sent the above exporters a questionnaire directly.

The commission also placed a copy of the exporter questionnaire on the commission’s website for completion by other exporters who were not contacted directly.

The commission received 2 responses to the exporter questionnaire (REQ) listed in Table 5. The non-confidential versions of the REQs and the verification reports (if applicable) are available on the commission website.

<b>EPR document number</b>	<b>Interested party</b>	<b>Date received</b>
5	Hyundai Steel Company	7 June 2024
7	Dragon Steel Corporation	24 May 2024

**Table 5: REQs received**

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<sup>24</sup> ‘Cooperative exporter’ is defined in section 269T(1).

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### Uncooperative exporters

The commission sent a questionnaire to SYS and did not receive a response. Accordingly, the commission considers that SYS is an uncooperative exporter for this review.

The Commissioner considers all other exporters not listed in Table 5 from the subject countries (excluding exempt exporters from Taiwan) are uncooperative exporters for this review. These exporters did not provide a completed questionnaire, information that the Commissioner requested.

Section 269T(1) states that an exporter is an 'uncooperative exporter' where the Commissioner is satisfied that an exporter of goods the subject of the review did not give the Commissioner information the Commissioner considered to be relevant to the review within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the review.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within a specified timeframe, or provides a response that the Commissioner considers did not provide information relevant to the case.

#### **2.4.2 Submissions from interested parties**

The commission received the submissions listed in Table 6 before publishing this SEF. Non-confidential versions of these submissions are available on the EPR.

<b>EPR document number</b>	<b>Interested party and topic of submission</b>	<b>Date received</b>	<b>Considered in this SEF?</b>
6	Liberty Primary – Exporter visit briefing	27 June 2024	Yes
9	Liberty Primary – Duty method and calculation of export price	22 November 2024	No
11	SYS – Duty method and rate of duty	22 November 2024	No

**Table 6: Submissions received prior to the SEF**

Two of the submissions were received 1 week prior to the publication of this SEF. The Commissioner has not had regard to these submissions in this SEF as to do so would prevent the timely publication of this SEF. Those 2 submissions will be considered in the final report.

The submission received on 27 June 2024 was an exporter visit briefing provided by Liberty Primary. This submission was an opportunity for Liberty Primary to provide the commission with an overview of certain issues specific to exporters that provided a REQ. The commission has considered this briefing as part of its verification activities which have informed the findings in this SEF.

### 3 THE GOODS AND LIKE GOODS

#### 3.1 The goods subject to the measures

ADN 2013/75 defines the goods under consideration as follows:<sup>25</sup>

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 130mm and less than 650 mm;
- channels (U sections and C sections) of a height greater than 130 mm and less than 400mm; and
- equal and unequal angles (L sections), with a combined leg length of greater than 200mm.

Sections and/or shapes in the dimensions described above, that have minimal processing, such as cutting, drilling or painting do not exclude the goods from coverage of the investigation.

The goods subject to the measures do not include:

- 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).

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<sup>25</sup> ADN 2013/075 is the initiation notice for the original investigation (*Investigation 223*).

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### 3.1.1 Exempt goods

Exports of certain HRSS which fall under the goods description are exempt from the measures.

*Ministerial Exemption Instrument No. 5 of 2019* exempted goods which are covered by Tariff Concession Order 19104997.<sup>26</sup> These goods are:

UNEQUAL ANGLES, hot-rolled steel sections, complying with Australian and New Zealand standard AS/NZS 3679:1:2016, Grade 300 OR Grade 350, having EITHER of the following:

- (a) leg size 150 mm x 90 mm having ANY of the following:
  - (i) thickness being 8 mm OR 10 mm OR 12 mm;
  - (ii) lengths of 9 m OR 10.5 m OR 12 m,
  
- (b) leg size 150 mm x 100 mm having ANY of the following:
  - (i) thickness being 10 mm OR 12 mm;
  - (ii) lengths of 9 m OR 10.5 m OR 12 m

### 3.1.2 Tariff classification

The goods are generally classified according to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*.<sup>27</sup>

Reference number	Statistical code	Goods
<b>7216</b>		<b>ANGLES, SHAPES AND SECTION OF IRON OR NON-ALLOY STEEL</b>
7216.3		- U, I or H sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more
7216.31.00	30	-- U sections
7216.32.00	31	-- I sections
7216.33.00	32	-- H sections
7216.40.00	33	- L or T sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more

**Table 7: Tariff classification of the goods**

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<sup>26</sup> [EPR EX0077](#), no 4, *Exemption Instrument No 5 of 2019*.

<sup>27</sup> These tariff classifications and statistical codes may include goods that are both subject and not subject to the measures. The listing of these tariff classifications and statistical codes is for convenience or reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail about goods subject to the measures.

### 3.2 Model control codes

The proposed model control code (MCC) structure described in ADN 2024/021 (and in Table 8) describes the key characteristics of the goods.

Category	Sub-category	Identifier	Sales data	Cost data
Prime	Prime	P	Mandatory	N/A
	Non-prime	N		
Shape	Universal Beams ('I' sections)	I	Mandatory	Mandatory
	Universal Columns and Universal Bearing Piles ('H' sections)	H		
	Channels ('U' or 'C' sections)	C		
	Angles (Equal and Unequal Angle sections)	A		
Minimum yield strength	Less than 265 MPa	A	Mandatory	Mandatory
	Greater than or equal to 265 MPa	B		
Tensile strength	Less than 400 MPa	A	Optional	Optional
	Greater than or equal to 400 MPa and less than 450 MPa	B		
	Greater than or equal to 450 MPa and less than 500 MPa	C		
	Greater than or equal to 500 MPa	D		
Thickness	Minimum cross-sectional thickness less than 11 mm	1	Optional	Optional
	Minimum cross-sectional thickness greater than or equal to 11 mm	2		
Dimension	Beam or section height less than 230 mm	S	Optional	Optional
	Beam or section height equal to or greater than 230 mm	L		
Weldability	Carbon equivalent value specified in relevant standard	Y	Optional	Optional
	Carbon equivalent value not specified in relevant standard	N		

**Table 8: MCC structure**

The initiation notice invited interested parties to make submissions with proposals to modify the MCC structure as it applied to them.

#### *Hyundai Steel*

Consistent with the Hyundai Steel's verification report in CON 637, the commission categorised universal beams, universal columns, and universal bearing piles as H Sections. It then categorised a distinct 'I-Beam' product as I Sections. The commission has categorised all of Hyundai Steel's sales of beams, columns, and bearing piles as MCC shape category 'H'.

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### *Dragon Steel*

Like Hyundai Steel, Dragon Steel categorises all universal beams and columns as H Sections. The commission has categorised all of Dragon Steel's sales of beams and columns as MCC shape category 'H'.

## **4 VARIABLE FACTORS – EXPORT PRICE AND NORMAL VALUE**

### **4.1 Preliminary finding**

The Commissioner preliminarily finds that the variable factors for export price and normal value have changed. The Commissioner proposes to recommend to the Minister that the notice have effects as if different export price and normal values had been ascertained.

The revised export price and normal value have resulted in different dumping margins relevant to the imposition of IDD. The preliminary dumping margins for the review period are summarised in Table 9.

Country	Exporter	Dumping margin
Japan	Uncooperative and all other exporters	15.8%
ROK	Hyundai Steel	7.0%
	Uncooperative and all other exporters	12.5%
Taiwan	Dragon Steel	7.0%
	Uncooperative and all other exporters	10.8%
Thailand	Uncooperative and all other exporters	5.7%

**Table 9: Summary of dumping margins**

### **4.2 Legislative framework**

Export price and normal value are determined as outlined below:

- **Export price** is determined under section 269TAB. Section 269TAB(1)(a) provides that the export price of any goods exported to Australia is the price paid or payable for the goods by the importer where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in arms length transactions.
- **Normal value** is determined under section 269TAC. Section 269TAC(1) states that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are arms length transactions by the exporter, or, if like goods are not so sold by the exporter, by other sellers of like goods.
- **Uncooperative exporters:** Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. Export prices are to be worked out under section 269TAB(3) and normal values are to be calculated under section 269TAC(6).

The export price and normal value also inform the dumping margin. Dumping margins are worked out under section 269TACB.

### **4.3 Variable factors**

The Commission assessed the export price, normal value, and dumping margins for exports from the subject countries. The following sections outline the assessment for:

- Uncooperative and all other exporters from Japan
- Hyundai Steel
- Uncooperative and all other exporters from the ROK
- Dragon Steel
- Uncooperative and all other exporters from Taiwan
- Uncooperative and all other exporters from Thailand.

#### **4.3.1 All exporters from Japan**

The commission did not receive any completed REQs from exporters from Japan. Accordingly, the commission considers all exporters from Japan are uncooperative exporters in this review.

The commission has therefore used the best available information to calculate the export price and normal value for exports of the goods from Japan in the review period.

##### Export price

Pursuant to section 269TACAB(1), the commission has determined the export price for all exporters from Japan under section 269TAB(3) – having regard to all relevant information.

The commission considers that ABF import data is the most reliable and relevant information available in relation to exports of the goods from Japan over the review period. Therefore, the commission has used ABF import data to ascertain the weighted average free on board (FOB) value for imports from Japan over the review period.

The commission notes that this was the same approach taken for the export price for Japan in REV 499.

##### Normal value

Pursuant to section 269TACAB(1), the commission has determined the normal value for all exporters from Japan under section 269TAC(6) – having regard to all relevant information.

The commission used the verified normal value information from the original investigation when it last determined a normal value for Japan in REV 499. The commission adjusted the normal value from the original investigation for the movement in the export price for uncooperative and all other exporters from Japan between the original investigation and REV 499.

For this review, the commission has adjusted the normal value from REV 499 for all exporters from Japan by the movement in domestic Japanese H-beam prices. The commission has used confidential steel pricing data relating to domestic prices for H-beams in Japan over the review period, sourced from *S&P Global, Platts Market Data*.

## PUBLIC RECORD

The commission considers that this is the most relevant information as it:

- relates to H-beams which are a category of the goods
- is based on domestic selling prices in Japan
- extends from the period in REV 499 across the entire review period
- is sourced from a reputable provider of steel market information.

### Dumping margin

The preliminary dumping margin for the goods exported to Australia by all exporters from Japan for the review period is **15.8%**.

The commission's dumping margin calculations for all exporters from Japan are at **Confidential Attachment 1**.

### **4.3.2 Hyundai Steel**

Hyundai Steel was the only exporter from the ROK during the review period.

The commission completed an on-site verification in the ROK of the information Hyundai Steel provided in its REQ.<sup>28</sup>

### Export price

The commission has calculated Hyundai Steel's export price using sections 269TAB(1)(a) and 269TAB(1)(c).

### *Who is the exporter?*

The commission considers Hyundai Steel is the exporter of the Australian export goods because this company:

- produced the Australian export goods to the relevant Australian/New Zealand Standard
- is named as the supplier on commercial invoices
- is named as consignor on bills of lading
- arranged and paid for inland transport to the port of export
- arranged and paid for port handling charges at the port of export
- arranged and paid for ocean freight and marine insurance.

Hyundai Steel made Australian sales on delivered duty paid (DDP) and FOB terms during the review period.

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<sup>28</sup> [EPR 642](#), no 10.

## PUBLIC RECORD

### *Who is the importer?*

For all export sales on DDP terms, the commission considers Hyundai Steel is the importer of the Australian export goods. In other words, Hyundai Steel beneficially owned the Australian export goods at the time of import into Australia. Most export sales are on DDP terms.

For these export sales:

- the Australian customer is named as the buyer on the sales order contract and commercial invoice
- Hyundai Steel is named as the shipper on the bill of lading
- the consignee on the bill of lading is listed as 'to the order of shipper' (as export sales are arranged on letter of credit)
- the Australian customer is named as the notify party on the bill of lading
- the letter of credit is payable on sight of the bill of lading (payable when the goods are exported)
- Hyundai Steel pays for all post-exportation charges (excluding marine insurance where applicable) up to and including Australian customs clearance fees
- Hyundai Steel pays for the IDD.

Based on the above findings, the commission considers that Hyundai Steel is the beneficial owner of the goods when the goods arrive in Australia. Although the Australian customer pays for the goods under the letter of credit on sight (at the time of export), it cannot benefit from the goods until they are released from Australian customs which is the responsibility of Hyundai Steel.

The commission considers that for minor volume of sales on FOB terms, Hyundai Steel's Australian customer is the importer of the goods.

### *Are the export sales arms length?*

For the Australian export goods sold during the review period, the commission finds that Hyundai Steel sold at arm's length to unrelated customers.

Hyundai Steel did not make any Australian sales to related customers during the review period.

For all unrelated customer transactions, the commission finds that Hyundai Steel sold the Australian export goods at arm's length as defined under section 269TAA.

For these transactions, the commission does not find that:

- there was consideration for the goods other than price
- a relationship between a buyer, a seller or their associates appeared to influence the price
- a buyer or buyer's associate directly or indirectly received compensation, reimbursement or another benefit for, or relating to, any part of the price.

## PUBLIC RECORD

For these transactions, the commission notes that Hyundai Steel:

- sold goods at similar prices to all unrelated customers
- referred to a market price index when setting the Australian market price for unrelated customers.
- appeared to genuinely negotiate the price with unrelated customers.

### *Calculation of export price*

The commission has calculated the export price for Hyundai Steel under:

- section 269TAB(1)(a) in relation to sales on FOB terms
- section 269TAB(1)(c) in relation to sales on DDP terms.

Under section 269TAB(1)(a), an export price is the price paid by the importer to the exporter less transport and other costs arising after exportation.

Under section 269TAB(1)(c), the export price is set having regard to all the circumstances of the exportation. Specifically, the commission recommends calculating an FOB export price using the DDP invoice price, less:

- ocean freight
- marine insurance (where applicable)
- Australian Customs brokerage charges
- interim dumping duty or final duty payable.

The commission's calculation of Hyundai Steel's export price is at **Confidential Attachment 2**.

### Normal value

The commission has calculated Hyundai Steel's export price using prices of like goods under section 269TAC(1) and section 269TAC(8) to adjust those prices of like goods. The adjustments are outlined in Table 12.

The commission finds that there is a sufficient sales volume of domestic like goods, sold at arm's length and in the OCOT to calculate a normal value under section 269TAC(1).

The commission has also adjusted the normal value to properly compare this value to the export price when measuring the level of dumping, under section 269TAC(8).

### *Arms length assessment*

For the domestic like goods sold during the review period, the commission finds that Hyundai Steel:

- sold at arm's length to unrelated customers
- sold at arm's length to related customers.

For all unrelated and related customer transactions, the commission finds that Hyundai Steel sold the domestic goods at arm's length as defined under section 269TAA.

## PUBLIC RECORD

For these transactions, the commission does not find that:

- there was consideration for the goods other than price
- a relationship between a buyer, a seller or their associates appeared to influence the price
- a buyer or buyer’s associate directly or indirectly received compensation, reimbursement or another benefit for, or relating to, any part of the price.

For these transactions, the commission notes that Hyundai Steel:

- sold goods at similar prices to all unrelated customers
- referred to a market price index when setting the domestic market price for unrelated customers.
- appeared to genuinely negotiate the price with unrelated customers.

*Are domestic sales in the OCOT?*

Section 269TAAD sets out which sales are in the ordinary course of trade. Under this section, a domestic like goods sale is not in the ordinary course of trade if the conditions below apply to the sale:

- The sale is unprofitable in substantial quantities over an extended period.
- The sale is unlikely to be recoverable within a reasonable period.

The commission typically uses this method to assess each step of identifying a sale not in the ordinary course of trade.

1. A sale is unprofitable if its unit price is less than the corresponding unit cost to make and sell in the sales month or sales quarter.
2. All sales for a model are unprofitable in substantial quantities if the volume of unprofitable sales is 20% or more of the total volume of sales.
3. A sale is unlikely to be recoverable if its unit price is less than the corresponding unit cost to make and sell for the entire reasonable period.

Table 10 summarises the information the commission has used to assess if Hyundai Steel’s domestic sales of like goods are in the OCOT.

Component	Details
Extended unprofitability period	The review period
Reasonable recoverability period	The review period
Price	Net invoice price
Cost	Quarterly cost to make and sell the goods, including direct selling expenses for each transaction.
Weighted average cost	Weighted average cost to make and sell the goods over the review period, including direct selling expenses for each transaction.
Date of sale: Australian exports	Invoice date
Date of sale: domestic	Invoice date

**Table 10: Ordinary course of trade assessment details (Hyundai Steel)**

## PUBLIC RECORD

*Are there sufficient volumes of domestic sales in the OCOT?*

To assess if there is a large enough volume of domestic sales to set a normal value under section 269TAC(1), the commission must compare the domestic and Australian export sales volumes for an exporter. If the domestic sales volume is less than 5% of the Australian export sales volume, the commission must also assess if the domestic sales volume is still large enough to use in a normal value that properly compares to the export price.

Section 269TAC(14) sets this sufficiency test for dumping investigation cases. The commission also uses this sufficiency test when setting a normal value in other case types.

The commission finds that Hyundai Steel's domestic like goods sales volume was at least 5% of its Australian export goods sales volume and is therefore a sufficient volume for use in a normal value set under section 269TAC(1).

Table 11 details the commission's findings about domestic sales volumes for each corresponding Australian export sales model.

<b>Export MCC</b>	<b>Is MCC's domestic sales volume 5% or greater the export sales volume?</b>	<b>Treatment of normal value</b>
P-C-B-B-L	Yes	The commission considers domestic sales of same MCC permits a proper comparison to exported goods.
P-C-B-B-S	Yes	The commission considers domestic sales of same MCC permits a proper comparison to exported goods.
P-H-B-B-L	Yes	The commission considers domestic sales of same MCC permits a proper comparison to exported goods.
P-H-B-B-S	Yes	The commission considers domestic sales of same MCC permits a proper comparison to exported goods.

**Table 11: Export models compared to domestic model by volume (Hyundai Steel)**

### *Calculation of normal value*

The commission has found that Hyundai Steel made domestic sales of like goods in the OCOT for home consumption in arms length transactions. Accordingly, the commission has calculated Hyundai Steel's normal value under section 269TAC(1).

## PUBLIC RECORD

### *Adjustments to the normal value*

Table 12 summarises the adjustments made to Hyundai Steel's normal value to properly compare the export price to the corresponding normal value.

<b>Adjustment description</b>	<b>Deduction/addition</b>
Domestic credit expenses	Deduction
Domestic inland transport	Deduction
Export inland transport	Addition
Export port handling	Addition

**Table 12: Summary of adjustments (Hyundai Steel)**

The commission's calculation of Hyundai Steel's normal value is at **Confidential Attachment 4**.

### Dumping margin

The commission has calculated Hyundai Steel's dumping margin by comparing weighted average Australian export prices to the corresponding weighted average normal values for the review period.

The commission has calculated a dumping margin of **7.0%**.

The commission's calculation of Hyundai Steel's dumping margin is at **Confidential Attachment 5**.

### **4.3.3 Uncooperative and all other exporters from the ROK**

The commission did not identify any other exporters in the ABF import database from the ROK during the review period and did not receive any completed REQs relevant to the ROK. The commission considers that all other exporters from the ROK are uncooperative exporters in this review and calculated variable factors to apply to 'uncooperative and all other exporters'.

### Export price

The export price for uncooperative and all other exporters from the ROK was determined having regard to all relevant information under section 269TAB(3).

The commission has ascertained the export price for uncooperative all other exporters from the ROK as equal to Hyundai Steel's weighted average export price.

### Normal value

The normal value for uncooperative and all other exporters from the ROK was determined having regard to all relevant information under section 269TAC(6).

The commission has ascertained the normal value for uncooperative all other exporters from the ROK as equal to Hyundai Steel's weighted average normal value, less any downwards adjustments.

### Dumping margin

The commission has calculated the dumping margin for uncooperative and all other exporters from the ROK by comparing the weighted average export price to the corresponding weighted average normal value for the review period.

The commission has calculated a dumping margin of **12.5%**.

The commission's calculation of the variable factors for uncooperative and all other exporters from the ROK is at **Confidential Attachment 6**.

#### **4.3.4 Dragon Steel**

Dragon Steel did not export the goods to Australia during the review period.

Dragon Steel provided a completed REQ to the commission.<sup>29</sup> The commission assessed Dragon Steel's REQ and did not find any deficiencies. Although the commission did not conduct a verification of Dragon Steel's REQ, it considers that the information is sufficient to determine Dragon Steel's export price and normal value. This is because Dragon Steel provided relevant information, including:

- a domestic sales listing including related and unrelated parties
- cost to make and sell (CTMS) for the like goods sold domestically
- information (including the relevant standards) that would allow the commission to apply model matching criteria.

The commission has previously verified information from Dragon Steel as part of REV 499.<sup>30</sup>

### Export price

The commission has determined Dragon Steel's export price under section 269TAB(3). Specifically, the commission has used Dragon Steel's export price from REV 499 with a timing adjustment to make it contemporary to the review period.

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<sup>29</sup> [EPR 642](#), no 7.

<sup>30</sup> [EPR 499](#), no 22.

## PUBLIC RECORD

### *Calculation of export price*

Dragon Steel did not export the goods to Australia during the review period. The commission considers that it is appropriate to examine whether Dragon Steel's export price has changed in the absence of exports. This is because:

- the application claimed that the export price for exports from Taiwan has changed<sup>31</sup>
- the commission has assessed that the price of imports from Taiwan has changed.<sup>32</sup>

As there were no exports by Dragon Steel in the review period, the commission cannot determine an export price under section 269TAB(1).

Section 269TAB(2A) outlines a situation in a review of measures where there is insufficient or unreliable information to ascertain the export price due to an absence or low volume of exports. To assess this, the commission has had regard to:

- previous volumes of exports of the goods to Australia by the exporter
- patterns of trade for like goods
- factors affecting patterns of trade for like goods that are not within the control of the exporter.<sup>33</sup>

The commission considers that Dragon Steel's volume of exports in the review period was low when compared to its previous volume of exports. Following the period where Dragon Steel exported to Australia, there has been a long period where Dragon's Steel's exports have been absent.

Dragon Steel's lack of exports in the review period is not consistent with the general pattern of trade for HRSS imports. Imports of HRSS into Australia have continued in substantial volumes.

Dragon Steel's lack of exports appears to have been influenced by other Taiwanese exporters not subject to measures (who are exporting more than Dragon Steel's previous volumes), a factor outside of its control.

The commission considers that although there is an absence of exports from Dragon Steel during the review period, this does not satisfy the conditions of section 269TAB(2A).

The commission has examined each factor relevant to the test under section 269TAB(2A).

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<sup>31</sup> [EPR 642](#), no 2, pp 19-20.

<sup>32</sup> [EPR 642](#), no 3, p 7.

<sup>33</sup> Section 269TAB(2A)(i), (ii) and (iii).

## PUBLIC RECORD

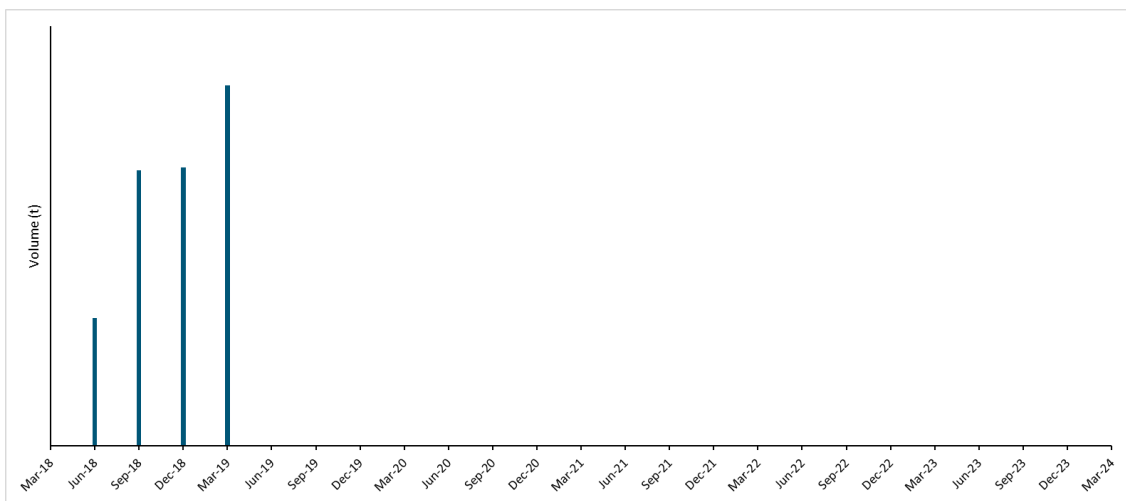
### *Previous volumes of exports by Dragon Steel*

To assess the previous volumes of exports by Dragon Steel, the commission has used ABF import data.

The commission compared the volume of imports from Dragon Steel during the review period to its historical average. A decrease in imports during the review period may indicate that there is insufficient or unreliable information to ascertain the export price.

Figure 1 shows quarterly historical imports of HRSS from Dragon Steel into Australia. Imports from Dragon Steel only occurred from Jun-18 to Mar-19. The volume of imports from Dragon Steel in the review period is low when compared to when it last exported, albeit over 5 years ago.

**Figure 1: Quarterly imports of HRSS from Dragon Steel**



### *Patterns of trade for like goods*

To assess the patterns of trade for like goods, the commission will compare the volume of imports from all sources during the review period to the historical average. This informs the commission whether the low volume of Dragon Steel's exports was consistent with the general patterns of trade for all exports of HRSS.

The commission considers that Dragon Steel's low volume of exports is not consistent with general patterns of trade for HRSS.

Observation of quarterly import volumes of HRSS shows that:

- imports from Dragon Steel ceased in Mar-19 and did not resume
- imports from Taiwan that were subject to measures decreased from Mar-18 to Dec-19
- imports from Taiwan that were not subject to measures increased from Dec-19 to Dec-21
- imports from Taiwan that were not subject to measures remained relatively consistent from Jun-22 to Dec-23 before spiking in Mar-23.
- cumulative imports from all sources exhibited similar patterns as imports from Taiwan.

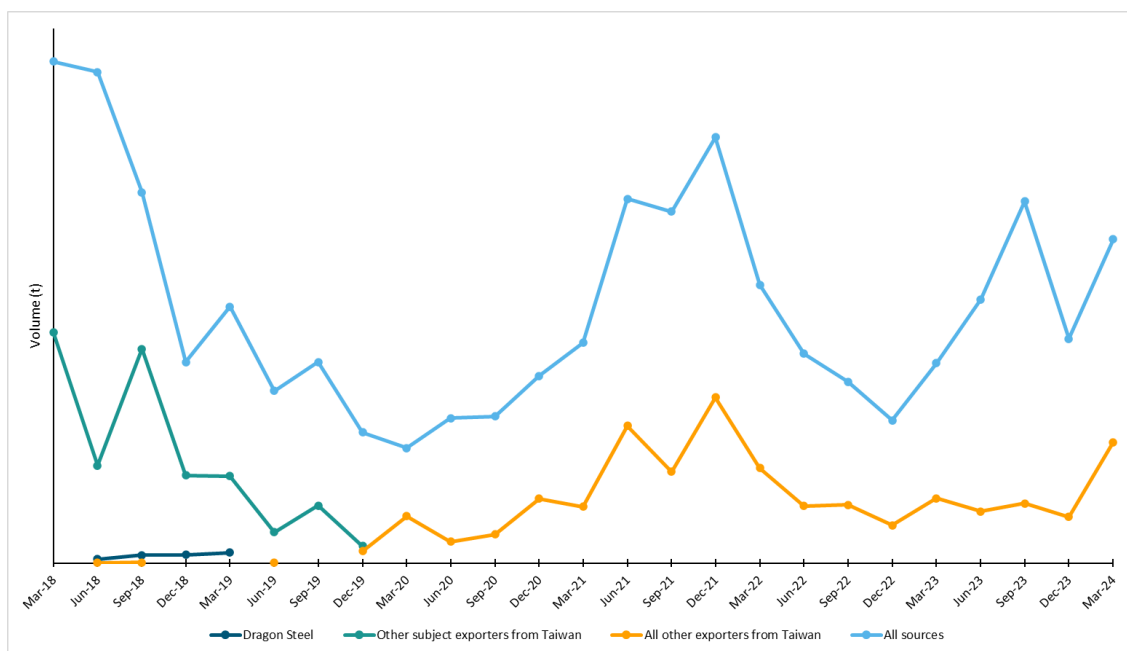
The commission considers that this indicates that:

- the absence of imports from Dragon Steel after Mar-19 was low compared to historical volumes
- imports from Dragon Steel may have ceased after Mar-19 in response to increased competition in a shrinking import market
- imports from Dragon Steel did not resume following the Mar-20 quarter, when the Australian HRSS import market began to increase again.

Figure 2 shows quarterly imports of HRSS from Taiwan (and cumulative imports from all sources) from the Mar-18 quarter. Imports from Dragon Steel occurred at a time when imports from other subject exporters were decreasing. Cumulative imports from all sources (including Taiwan) also fell over a similar period (Mar-19 to Mar-20). The commission considers that it appears that Dragon Steel entered the Australian market at a time when imports from all sources were decreasing. It is not inconsistent with the patterns of trade for HRSS that Dragon Steel would reduce its exports at a time when exports from all sources are decreasing.

Imports from Taiwan (and all sources) did not begin to increase again until the Sep-20 quarter but imports from Dragon Steel did not resume. The commission considers that is inconsistent with the patterns of trade for HRSS.

**Figure 2: Quarterly imports of HRSS from all sources**



**Factors affecting patterns of trade outside of Dragon Steel’s control**

As a result of CON 505 and ADRP Review 2019/121, the measures ceased to apply to TS Steel and Tung Ho (effective 21 November 2019). From the Mar-20 quarter onwards, all imports from Taiwan were from exporters not subject to measures. The commission considers that is a factor which is outside of Dragon Steel’s control, which may have led to Dragon Steel’s exports ceasing.

## PUBLIC RECORD

When imports from Taiwan not subject to the measures began to increase from Jun-20, imports from Dragon Steel did not resume. The commission considers this indicates that Dragon Steel was no longer able to compete with exporters that were not subject to measures. Although Dragon Steel's prices are within its control, the commission would not expect Dragon Steel to export to Australia at prices which are below cost for the sole purpose of competing with exports from Taiwan not subject to measures.

The commission considers that the lack of exports by Dragon Steel during the review period were in part due to factors outside of its control.

### *Calculation of export price*

As the commission cannot determine Dragon Steel's export price under sections 269TAB(1) or 269TAB(2A), it must determine the export price under section 269TAB(3). Section 269TAB(3) outlines that the export price shall be determined having regard to all relevant information.

In this circumstance, the commission considers that the most relevant information is the export price last determined for Dragon Steel as part of REV 499. This is because:

- it is based on verified information<sup>34</sup>
- it relates directly to Dragon Steel's exports of the goods to Australia
- Dragon Steel has not exported the goods to Australia since REV 499.

The commission has adjusted Dragon Steel's REV 499 export price by the movement in cost to make to calculate what the export would have been during the review period. The commission considers that the cost to make is an appropriate basis to adjust the export price as:

- it relates directly to like goods
- uses Dragon Steel's own information
- cost to make information is available for both the period covered in REV 499 and the review period.

The commission's calculation of Dragon Steel's export price is at **Confidential Attachment 8**.

### Normal value

Dragon Steel provided information in its REQ that enabled the commission to calculate a normal value.

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<sup>34</sup> [EPR 499](#), no 22.

## PUBLIC RECORD

### *Appropriate domestic MCCs*

Dragon Steel sold 30 models in its domestic market during the review period. As the commission has calculated Dragon Steel's export price using its price in REV 499 as a basis, it has assessed which domestic models are comparable to the models exported in REV 499.

The MCC structure in REV 499 was slightly different to the structure used in this review. To ensure that the correct models are compared, the commission has applied the MCC structure from this review to Dragon Steel's exports in REV 499.

The commission used the specification information provided in Dragon Steel's export sales listing in REV 499 and information from Dragon Steel's catalogue<sup>35</sup> to determine the correct MCCs. Based on that information, the commission considers that the following domestic models are comparable to Dragon Steel's exports in REV 499:

- P-H-B-B-1-L
- P-H-B-B-1-S
- P-H-B-B-2-L.

These are models with a:

- minimum yield strength greater than or equal to 265 MPa
- tensile strength greater than or equal to 400 MPa and less than 450 MPa.

There was not sufficient information in Dragon Steel's export sales listing in REV 499 to determine the MCC category for weldability. Accordingly, the commission has calculated the normal value without the weldability MCC category. This category was noted as optional in the initiation notice.

### *Arms length assessment*

Dragon Steel made domestic sales to related and unrelated customers during the review period. The commission compared domestic selling prices to related and unrelated customers to assess whether Dragon Steel's sales to its related customers were arms length. The commission found that on average and for each MCC, Dragon Steel's price to its related domestic customers were higher. Accordingly, the commission was satisfied that Dragon Steel's sales to its domestic related customers were arms length.

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<sup>35</sup> Dragon Steel Corporation, [DSC Catalogue – Specification](#), Dragon Steel Corporation website, n.d., accessed 17 May 2024.

## PUBLIC RECORD

### *Are domestic sales in the OCOT?*

Section 269TAAD sets out which sales are in the ordinary course of trade. Under this section, a domestic like goods sale is not in the ordinary course of trade if the conditions below apply to the sale:

- The sale is unprofitable in substantial quantities over an extended period.
- The sale is unlikely to be recoverable within a reasonable period.

The commission typically uses this method to assess each step of identifying a sale not in the ordinary course of trade.

1. A sale is unprofitable if its unit price is less than the corresponding unit cost to make and sell in the sales month or sales quarter.
2. All sales for a model are unprofitable in substantial quantities if the volume of unprofitable sales is 20% or more of the total volume of sales.
3. A sale is unlikely to be recoverable if its unit price is less than the corresponding unit cost to make and sell for the entire reasonable period.

Table 13 summarises the information the commission has used to assess if Dragon Steel's domestic sales of like goods are in the OCOT.

<b>Component</b>	<b>Details</b>
Extended unprofitability period	The review period
Reasonable recoverability period	The review period
Price	Net invoice price
Cost	Quarterly cost to make and sell the goods, including direct selling expenses for each transaction.
Weighted average cost	Weighted average cost to make and sell the goods over the review period, including direct selling expenses for each transaction.
Date of sale: Australian exports	Invoice date
Date of sale: domestic	Invoice date

**Table 13: Ordinary course of trade assessment details (Dragon Steel)**

### *Are there sufficient volumes of domestic sales in the OCOT?*

To assess if there is a large enough volume of domestic sales to set a normal value under section 269TAC(1), the commission must compare the domestic and Australian export sales volumes for an exporter. If the domestic sales volume is less than 5% of the Australian export sales volume, the commission must also assess if the domestic sales volume is still large enough to use in a normal value that properly compares to the export price.

Section 269TAC(14) sets this sufficiency test for dumping investigation cases. The commission also uses this sufficiency test when setting a normal value in other case types.

**PUBLIC RECORD**

As Dragon Steel did not export the goods to Australia during the review period, the commission has used the Australian export sales volume from REV 499.

The commission finds that Dragon Steel’s domestic like goods sales volume in this review was at least 5% of its Australian export goods sales volume in REV 499 and is therefore a sufficient volume for use in a normal value set under section 269TAC(1).

Table 14 Table 11 details the commission’s findings about Dragon Steel’s domestic sales volumes for each corresponding Australian export sales model.

<b>Export MCC</b>	<b>Is MCC’s domestic sales volume 5% or greater the export sales volume?</b>	<b>Treatment of normal value</b>
P-H-B-B-1-L	Yes	The commission considers domestic sales of same MCC permits a proper comparison to exported goods.
P-H-B-B-1-S	Yes	The commission considers domestic sales of same MCC permits a proper comparison to exported goods.
P-H-B-B-2-L	Yes	The commission considers domestic sales of same MCC permits a proper comparison to exported goods.

**Table 14: Export models compared to domestic model by volume (Dragon Steel)**

*Calculation of normal value*

The commission has found that Dragon Steel made domestic sales of like goods in the OCOT for home consumption in arms length transactions. Accordingly, the commission has calculated Dragon Steel’s normal value under section 269TAC(1).

*Adjustments to the normal value*

Table 15 provides a summary of the adjustments that, in accordance with section 269TAC(8), are necessary to ensure a fair comparison of normal values with export prices. The commission did not have sufficient data to calculate an export credit adjustment.

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Domestic credit expenses	Deduction
Domestic packaging expense	Deduction
Domestic inland transport	Deduction
Export packaging expense	Addition
Adjustment from EXW to FOB	Addition

**Table 15: Adjustments to normal value (Dragon Steel)**

The commission’s calculation of Dragon Steel’s normal value is at **Confidential Attachment 10**.

Dumping margin

The preliminary dumping margin for the goods exported to Australia by Dragon Steel for the review period is **7.0%**.

The commission's dumping margin calculation for Dragon Steel is at **Confidential Attachment 11**.

**4.3.5 Uncooperative and all other exporters from Taiwan**

The commission did not identify any other exporters in the ABF import database from Taiwan during the review period and did not receive any completed REQs relevant to Taiwan. The commission considers that all other exporters (other than Dragon Steel) from Taiwan are uncooperative exporters in this review and calculated variable factors to apply to 'uncooperative and all other exporters'.

Export price

The export price for uncooperative and all other exporters from Taiwan was determined having regard to all relevant information under section 269TAB(3).

The commission has ascertained the export price for uncooperative and all other exporters from Taiwan as equal to Dragon Steel's weighted average export price.

Normal value

The normal value for uncooperative and all other exporters from Taiwan was determined having regard to all relevant information under section 269TAC(6).

The commission has ascertained the normal value for uncooperative and all other exporters from Taiwan as equal to Dragon Steel's weighted average normal value, less any downwards adjustments.

Dumping margin

The commission has calculated the dumping margin for uncooperative and all other exporters from Taiwan by comparing the weighted average export price to the corresponding weighted average normal value for the review period.

The commission has calculated a dumping margin of **10.8%**.

The commission's calculation of the variable factors for uncooperative and all other exporters from Taiwan is at **Confidential Attachment 12**.

**4.3.6 Uncooperative and all exporters from Thailand**

In REV 499, the commission received a completed REQ from SYS. The commission conducted a verification visit to SYS and verified the data from its REQ. The commission did not receive an REQ from SYS for this review. Accordingly, SYS is now considered an uncooperative exporter and is covered under uncooperative and all other exporters from Thailand. The commission also did not receive any completed REQs from any other exporter from Thailand.

## PUBLIC RECORD

The commission considers that all exporters from Thailand are uncooperative exporters in this review and calculated variable factors to apply to 'uncooperative and all other exporters'.

The commission has used the best available information to calculate the export price and normal value for exports of the goods from Thailand in the review period.

### Export price

Pursuant to section 269TACAB(1), the commission has determined the export price for uncooperative and all other exporters from Thailand under section 269TAB(3) – having regard to all relevant information.

In REV 499, the commission was able to use verified information from SYS to determine the export price from Thailand. SYS did not provide an REQ in this review.

The commission considers that ABF import data is the most reliable and relevant information available in relation to exports of the goods from Thailand over the review period. Therefore, the commission has used ABF import data to ascertain the weighted average FOB value for imports from Thailand over the review period.

### Normal value

Pursuant to section 269TACAB(1), the commission has determined the normal value for uncooperative and all other exporters from Thailand under section 269TAC(6) – having regard to all relevant information.

Unlike for Japan, the commission does not have access to domestic steel prices in Thailand. The commission considers that the next best alternative is to adjust SYS's normal value from REV 499 by the movement in East Asian steel scrap prices, sourced from *S&P Global, Platts Market Data*. The commission considers that this is the most reasonable approach as:

- it uses the verified normal value for SYS as a basis
- steel scrap represents a significant (>60%) portion of the cost to make
- the steel scrap price data extends from the period in REV 499 across the entire review period
- the steel scrap price data is for the same geographic area (East Asia)
- the commission has previously used the same steel scrap price data as part of REV 499.

The commission notes that in CON 637, it provisionally estimated the normal value for all exporters from Thailand by using information provided by Liberty Primary in its application to that inquiry. The commission noted in CON 637 that this was the best available information relating to the normal value for Thailand at the time. That analysis covered a different inquiry period to the review period for this review, and was undertaken for the purposes of assessing whether the Commissioner was satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent, pursuant to section 269ZHF(2).

## PUBLIC RECORD

For the purposes of REV 642, the commission has not had regard to the methodology used in CON 637. Liberty Primary did not provide the same type of information as part of its application for this review. Instead, Liberty Primary used an average of domestic sales prices from the ROK and Taiwan.<sup>36</sup>

The commission considers that while this information was sufficient for the purposes of the application (they demonstrated reasonable grounds that the normal value for Thailand has changed), it is not the preferred approach to ascertain the normal value for Thailand. The commission considers that the domestic market conditions for HRSS in the ROK and Taiwan are different to those in Thailand. Accordingly, the commission's preference is, in the first instance, to use domestic prices in Thailand as a basis for the normal value.

The most contemporary information before the commission relating to domestic prices in Thailand is the verified normal value for SYS as part of REV 499. To ascertain what the normal value would be during the review period the commission must adjust the normal value from REV 499. In the absence of domestic HRSS prices for Thailand on which to base the adjustment, the commission has used steel scrap price data. Steel scrap represents a significant (>60%) proportion of the cost to make for HRSS, and the commission considers any movement in the price of steel scrap would be reflected in the normal value.

### Dumping margin

The preliminary dumping margin for the goods exported to Australia by uncooperative and all other exporters from Thailand for the review period is **5.7%**.

The commission's dumping margin calculations for uncooperative and all exporters from Thailand are at **Confidential Attachment 1**.

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<sup>36</sup> [EPR 642](#), no 2, pp 20-21.

## 5 VARIABLE FACTOR – NON-INJURIOUS PRICE

### 5.1 Preliminary finding

Having regard to the available information, the commission has determined that the NIP has changed for:

- Uncooperative and all other exporters from Japan
- Hyundai Steel
- Uncooperative and all other exporters from the ROK
- Dragon Steel
- Uncooperative and all other exporters from Taiwan
- Uncooperative and all other exporters from Thailand.

The commission calculated that the NIP is higher than or equal to the normal value established for all the above exporters. Therefore, the lesser duty rule does not apply.

The commission's calculation of the NIP is contained in **Confidential Attachment 13**.

### 5.2 Framework

#### 5.2.1 The NIP

The NIP is defined in section 269TACA as the minimum price necessary to prevent the injury or a recurrence of the injury caused by the dumping. The NIP is a variable factor relevant to determining duty payable under the Dumping Duty Act.

The legislation does not prescribe a calculation method for the NIP. The commission generally derives the NIP by establishing an USP (see below), being a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. The commission then deducts the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia from the USP. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

#### The unsuppressed selling price

The Manual provides a hierarchy of options for establishing a USP:<sup>37</sup>

- the Australian industry's price or market approach in a period unaffected by dumping
- the constructed approach, using the Australian industry's CTMS data and a reasonable amount for profit
- the price or market approach for undumped imports.

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<sup>37</sup> [The Manual](#), pages 106–109.

### **5.2.2 The lesser duty rule**

Where the Minister is required to determine the IDD payable, section 8(5B) of the Dumping Duty Act applies.

Under section 8(5B) of the Dumping Duty Act, where the NIP of the goods is less than the normal value of the goods, the Minister must have regard to the desirability of specifying a method such that the sum of the export price and the IDD payable does not exceed the NIP ('lesser duty rule').

However, under section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule if:

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii), or
- there is an Australian industry in respect of like goods that consists of at least 2 small-medium enterprises, whether or not that industry consists of other enterprises.

Where any of the above exceptions apply, the Minister's consideration of the lesser duty rule is not mandatory, but the Minister may still wish to exercise their discretion to do so.

## **5.3 Commission's approach and findings**

### **5.3.1 Finding**

The commission has adjusted the USP calculated as part of CON 637 by the movements in import prices.

The commission has found that the resulting NIP is higher than or equal to the normal value for all exporters. Therefore, the lesser duty rule does not apply.

### **5.3.2 Approach in the original investigation and past cases**

#### Original investigation and REV 499

In the original investigation, the commission determined that the NIP should be set equal to the normal value for each exporter. This approach was also taken in REV 499.

#### ADRP Review 2019/120

The commission re-examined the NIP calculated in REV 499 as part of *ADRP Review 2019/120*.<sup>38</sup> The commission found that the circumstances that existed at the time of the original investigation were no longer applicable. This was because Tung Ho was no longer subject to the measures as it was found not to be dumping.

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<sup>38</sup> [ADRP Report No. 120](#), pp. 42-49.

## PUBLIC RECORD

The commission examined whether Tung Ho's undumped prices were suitable to use as the USP. The commission found that Tung Ho's undumped prices were not suitable to establish the USP, as those prices were still affected by the presence of dumped exports in the Australian market. Instead, the commission established a USP having regard to the Australian industry's CTMS.

The commission did not include an amount for profit as the Australian industry had not been profitable for some time. The commission then deducted amounts for importer SG&A and profit, and post-importation costs to arrive at the NIP.

The commission found that the NIP was higher than the normal value for all exporters from ROK, Taiwan, and Thailand.<sup>39</sup>

Following the commission's reinvestigation, the ADRP recommended that the NIP be changed for:

- 'uncooperative exporters and all other exporters' from Taiwan
- Hyundai Steel
- SYS
- Tung Ho
- TS Steel.<sup>40</sup>

As a result of the ADRP's recommendations, the lesser duty rule applied to exports from SYS.<sup>41</sup>

### Continuation 637

The commission calculated a revised NIP for Hyundai Steel only as part of CON 637. For that inquiry the commission calculated a revised NIP for Hyundai Steel by having regard to:

- the USP, calculated by the constructed method
- verified post-exportation costs for Hyundai Steel from this CON 637
- verified post-importation costs from REV 499
- verified importer SG&A and profit from REV 499.

The commission also calculated a revised USP. The commission used the constructed method outlined in the Manual to establish the USP. The commission used Liberty Primary's CTMS for the inquiry period (1 October 2022 to 30 September 2023), with an amount for profit.

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<sup>39</sup> Exports from Japan were not examined as Japan was not covered by the reinvestigation request. The NIP for exports from Japan remained equal to the normal value.

<sup>40</sup> [ADRP Report No. 120](#), p 80.

<sup>41</sup> [ADRP Report No. 120](#), p 79.

### **5.3.3 Commissioner's assessment of NIP and USP for this review**

For this review the commission has calculated a revised NIP for the ROK, Taiwan, and Thailand by having regard to:

- the USP calculated for CON 637, indexed to cover the review period
- verified post-exportation costs for Hyundai Steel, or post-exportation costs from ABF import data for all other exporters
- verified post-importation costs from REV 499
- verified importer SG&A and profit from REV 499.

The commission has not separately considered a NIP for SYS, as SYS is now considered an uncooperative exporter.

For Japan, the commission considers that the NIP should be set equal to the normal value. This is consistent with the previous approach in REV 499 and was not considered as part of *ADRP Review 2019/120*.

#### Unsuppressed selling price

The commission has calculated an USP by indexing the USP calculated as part of CON 637. The commission considers that the USP calculated in CON 637 is the most appropriate basis for an USP as:

- it is based on verified information provided by the Australian industry
- it is contemporary information (within 6 months of the review period).

The commission has indexed the USP from CON 637 by the movement in import prices of HRSS to cover the review period. The commission considers that this approach is reasonable because the Australian industry operates an import price parity model.<sup>42</sup> The commission considers that the Australian industry's prices would move based on the movement in import prices.

#### Deductions to arrive at the NIP

To arrive at the NIP for exporters from the ROK, Taiwan, and Thailand, the commission has deducted:

- verified post-exportation costs for Hyundai Steel from this review (where applicable)
- post-exportation costs for all other exporters using ABF import data (where applicable)
- post-importation costs and importer SG&A and profit from REV 499.

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<sup>42</sup> Liberty Primary verification report, [EPR 637](#), no 10, section 3.3.

## **PUBLIC RECORD**

As noted in section 2.4.1 the commission did not receive any responses to importer questionnaires. Accordingly, the commission does not have verified information on contemporary post-importation costs and importer SG&A and profit that would be relevant for the calculation of the NIP. Although Hyundai Steel is an importer of the goods, its importations are such that it does not incur additional post-importation costs, SG&A or profit.

In this circumstance, the commission considers that the best available information is the verified post-importation costs and importer SG&A and profit from REV 499.

The commission has set the NIP for uncooperative and all exporters from Japan as equal to the normal value.

The commission has found that the NIP is higher than or equal to the normal value for all exporters.

### **5.3.4 Application of the lesser duty rule**

As the NIP is higher than or equal to the normal value for all exporters, the lesser duty rule does not apply.

## 6 DUTY METHOD

### 6.1 Preliminary findings and recommendations

The Commissioner considers the IDD payable on the goods exported from Hyundai Steel should be worked out using the ad valorem method, which is the same as the current method.

The Commissioner considers the IDD payable on HRSS exported from the following exporters should be worked out using the combination method, which is the same as the current method:

- all exporters from Japan
- all other exporters from the ROK
- Dragon Steel
- all other exporters from Taiwan
- all exporters from Thailand.

### 6.2 Legislative framework

The *Customs Tariff (Anti-Dumping) Regulation 2013* prescribes the methods available to the Minister for working out IDD payable. The methods are:

- fixed duty method (\$X per tonne)
- floor price duty method
- combination duty method
- *ad valorem* duty method (a percentage of the export price).

The various methods all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain methods will better suit particular circumstances than others. More detail on the nature and operation of the various methods are contained in the *Guidelines on the Application of Forms of Dumping Duty November 2013*.<sup>43</sup>

### 6.3 Duty methods and effective rates of duty

The Commissioner preliminary recommends that the duty methods remain the same for all exporters from the subject countries.

The Commissioner preliminary recommends that the effective rates of duty be revised to match the ascertained export price and normal values for all exporters from the subject countries.

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<sup>43</sup> [Anti-Dumping and countervailing system key legislation, directions and policy](#), *Guidelines on forms of dumping duty*.

**PUBLIC RECORD**

The current and recommended duty methods and measures are outlined in Table 16.

<b>Country</b>	<b>Exporter</b>	<b>Current measures</b>	<b>Proposed measures</b>
Japan	Uncooperative and all other exporters	12.2% Combination	15.8% Combination
ROK	Hyundai Steel	5.2% <i>ad valorem</i>	7.0% <i>ad valorem</i>
	Uncooperative and all other exporters	7.9% Combination	12.5% Combination
Taiwan	Dragon Steel	9.0% Combination	7.0% Combination
	Uncooperative and all other exporters	12.3% Combination	10.8% Combination
Thailand	SYS <sup>44</sup>	7.8% Combination	5.7% Combination
	Uncooperative and all other exporters	7.7% Combination	

**Table 16: Current and recommended duty methods and measures**

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<sup>44</sup> SYS is now considered an uncooperative exporter as part of this review.

**7 PROPOSED RECOMMENDATIONS**

The Commissioner has preliminarily found that the variable factors relevant to the determination of dumping duty payable under the Dumping Duty Act have changed in respect of the goods exported from the subject countries.<sup>45</sup>

The Commissioner proposes to recommend that the notice have effect in relation to exporters from the subject countries as if different variable factors had been ascertained.<sup>46</sup>

The Commissioner proposes that rate of IDD and duty methods in Table 17 apply from the date of publication of the final report.

Country	Exporter	Fixed rate of IDD	Duty method
Japan	Uncooperative and all other exporters	15.8%	Combination
ROK	Hyundai Steel	7.0%	<i>ad valorem</i>
	Uncooperative and all other exporters	12.5%	Combination
Taiwan	Dragon Steel	7.0%	Combination
	Uncooperative and all other exporters	10.8%	Combination
Thailand	Uncooperative and all other exporters	5.7%	Combination

**Table 17: Proposed measures resulting from this review**

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<sup>45</sup> The variable factors relevant to the determination of duty are the export price, normal value, and NIP.

<sup>46</sup> Section 269ZHF(1)(a)(iii).

**8 APPENDICES AND ATTACHMENTS**

<b>Confidential Attachment 1</b>	Japan and Thailand variable factors
<b>Confidential Attachment 2</b>	Hyundai Steel export price
<b>Confidential Attachment 3</b>	Hyundai Steel CTMS
<b>Confidential Attachment 4</b>	Hyundai Steel normal value
<b>Confidential Attachment 5</b>	Hyundai Steel dumping margin
<b>Confidential Attachment 6</b>	All other exporters from ROK variable factors
<b>Confidential Attachment 7</b>	Assessment of imports
<b>Confidential Attachment 8</b>	Dragon Steel export price
<b>Confidential Attachment 9</b>	Dragon Steel CTMS
<b>Confidential Attachment 10</b>	Dragon Steel normal value
<b>Confidential Attachment 11</b>	Dragon Steel dumping margin
<b>Confidential Attachment 12</b>	All other exporters from Taiwan variable factors
<b>Confidential Attachment 13</b>	USP and NIP