



CUSTOMS ACT 1901 - PART XVB

FINAL REPORT

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**

28 March 2024

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ABBREVIATIONS

Abbreviation	Full text
ABF	Australian Border Force
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
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 guidelines	<i>Guidelines on the Application of Forms of Dumping Duty November 2013</i>
HRSS, or the goods	hot rolled structural steel sections
Hyundai Steel	Hyundai Steel Company
IDD	interim dumping duty
INV 223, or the original investigation	<i>Investigation 223</i>
Liberty Primary, or the applicant	OneSteel Manufacturing Pty Ltd, trading as Liberty Primary Steel
the Manual	<i>Dumping and Subsidy Manual</i>
MCC	model control code
the measures	anti-dumping measures applying to hot rolled structural steel sections exported to Australia from Japan, the Republic of Korea, Taiwan, and the Kingdom of Thailand
the 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
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

PUBLIC RECORD

Abbreviation	Full text
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 Recommendations

The Commissioner of the Anti-Dumping Commission (the Commissioner)¹ has 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)² 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).³

The Commissioner recommends 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.⁴

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

Country	Exporter	Duty method and fixed IDD rate ⁵	
		Current	Recommended
Japan	Uncooperative and all other exporters	12.2% Combination	15.8% Combination
ROK	Hyundai Steel Company	5.2% <i>ad valorem</i>	6.8% <i>ad valorem</i>
	Uncooperative and all other exporters	7.9% Combination	12.5% Combination
Taiwan ⁶	Dragon Steel Corporation	9.0% Combination	7.0% Combination
	Uncooperative and all other exporters	12.3% Combination	10.8% Combination
Thailand	Siam Yamato Steel Co Ltd ⁷	7.8% Combination	5.7% Combination
	Uncooperative and all other exporters	7.7% Combination	

Table 1: Recommended measures resulting from this review

¹ 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.

² The measures consist of a dumping duty notice (the notice).

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

⁴ Section 269ZHF(1)(a)(iii) of the *Customs Act 1901* (the Act). All legislative references are to the Act unless otherwise specified.

⁵ 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*.

⁶ Except by Feng Hsin Steel Co Ltd, TS Steel Co Ltd, and Tung Ho Steel Enterprise Corporation. These exporters were previously exempted from the notice.

⁷ Siam Yamato Steel Co Ltd is an uncooperative exporter for this review. Refer to section 2.4.1.

1.2 Introduction

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

This report sets out the facts on which the Commissioner has based 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).⁸

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).⁹

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.

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 Company's (Hyundai Steel) premises in the ROK in relation to its questionnaire response.¹⁰

⁸ Unless otherwise specified, any references to Taiwan or the subject countries in this report are taken to exclude these 3 exempt exporters.

⁹ 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.

¹⁰ [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 Corporation (Dragon Steel) from Taiwan
- submissions received prior to the publication of the statement of essential facts (SEF)¹¹
- further information obtained during the verification visit to Hyundai Steel
- submissions received following publication of the SEF
- findings of the Anti-Dumping Review Panel (ADRP) in *ADRP Report No. 172*¹²
- 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 findings

The paragraphs below provide a summary of the Commissioner's findings, and further detail is throughout this report.

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

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

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

Country	Exporter	Dumping margin
Japan	Uncooperative and all other exporters	15.8%
ROK	Hyundai Steel Company	6.8%
	Uncooperative and all other exporters	12.5%
Taiwan	Dragon Steel Corporation	7.0%
	Uncooperative and all other exporters	10.8%
Thailand	Uncooperative and all other exporters	5.7%

Table 2: Dumping margins

¹¹ Refer to section 2.4.2 for further details – noting that 2 submissions were received close to the due date of the SEF and were not considered in the SEF. They have been considered in this report.

¹² The ADRP review examined an application by Hyundai Steel in relation to the Commissioner's findings from *Continuation Inquiry 637* and is relevant to Hyundai Steel's variable factors in this review. The ADRP published [ADRP Report No. 172](#) on its website on 18 February 2025, which was after the Commissioner's publication of the SEF.

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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.

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 does not recommend that the Minister 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 NIP by first determining an unsuppressed selling price (USP). The USP is a price 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 for this review by adjusting the USP calculated as part of *Continuation Inquiry 637* (CON 637), which examined a contemporary period (1 October 2022 to 30 September 2023) and remains a reliable basis for a NIP in this review.

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 or other relevant information available to the commission, including from CON 637. The commission considers that the information from REV 499 remains the most relevant as it:

- is information that was previously verified by the commission
- relates directly to the importation of the goods into Australia
- is specific to the imports of the goods from the subject countries.

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1.4.3 Duty method (chapter 6)

The Commissioner considers that the fixed rates of duty be revised to reflect the export prices and normal values ascertained for all exporters from the subject countries (as per Table 1).

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 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.

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, and
- any other submission received by the Commissioner relating generally to the review if, in the Commissioner's opinion, having regard to the submission would not prevent the timely placement of the statement of essential facts on the public record.

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

The Commissioner published the SEF on 29 November 2024.

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.

The Commissioner was originally due to provide the final report and recommendation to the Minister by no later than 5 September 2024.¹³

Following extensions, the Commissioner is now due to provide the final report and recommendations to the Minister by no later than **31 March 2025**,¹⁴ unless the Commissioner grants a further extension of time.

¹³ 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.

¹⁴ Refer ADNs 2024/044 and 2025/008, [EPR 642](#), nos 8 and 17 respectively.

2.1.3 Public record

The public record contains non-confidential submissions received from interested parties, verification reports, and other publicly available documents. The public record for this review is available online at www.adcommission.gov.au.

Interested parties should read this report in conjunction with documents on the public record.

2.2 Application and initiation

On 12 March 2024, Liberty Primary lodged an application under section 269ZB for a review of the measures.¹⁵

The Commissioner was satisfied that:

- the application complied with section 269ZB (content and lodgement requirements)¹⁶
- there appeared to be reasonable grounds for asserting that the variable factors relevant to the taking of the measures have changed.¹⁷

The Commissioner therefore decided not to reject the application and published ADN 2024/021 initiating the review on 3 April 2024.¹⁸

¹⁵ Under section 269ZA. A non-confidential version of the application is available on [EPR 642](#), no 2.

¹⁶ Section 269ZC(2)(a).

¹⁷ Section 269ZC(2)(b)(i).

¹⁸ [EPR 642](#), no 2.

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, or the original investigation). The findings of INV 223 are detailed in *Anti-Dumping Commission Report 223*.¹⁹

2.3.2 Current measures

Table 3 summarises the current measures.

Country	Exporter	Fixed 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

Further detail about the measures can be found on the dumping commodity register on the commission's website.²⁰

¹⁹ [EPR 223](#), no 96.

²⁰ Available [here](#).

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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 4.²¹ Further details can be found on the commission’s website.

Case number	ADN number	Date published	Country	Findings
Investigation 223	2014/127	20 November 2014	Japan ROK	Measures imposed (excluding Feng Hsin)
	Public Notice – Parliamentary Secretary’s Decision	7 August 2015	Taiwan Thailand	Change to variable factors for Siam Yamato Steel Co Ltd
Accelerated Review 359	2016/097	18 October 2016	Taiwan	Duty method changed for Dragon Steel Corporation
Review 345 and 346	2016/098	19 October 2016	Taiwan Thailand	Change to variable factors for certain exporters
Review 465	2018/167	14 December 2018	ROK	Change to variable factors for exporters from the ROK
Exemption EX0077	2019/153	20 December 2019	Japan ROK Taiwan Thailand	Exemption granted for goods under TCO no 19104997
Review 499	2019/125	11 November 2019	Japan ROK	Change to variable factors for certain exporters
	Public Notice – Minister’s Decision	6 April 2021	Taiwan Thailand	Change to variable factors for certain exporters
Continuation Inquiry 505	2019/126	11 November 2019	Japan ROK	Continuation of measures for certain exporters Expiry of measures for Tung Ho Steel Enterprise Corporation
	Public Notice – Minister’s Decision	6 April 2021	Taiwan Thailand	Continuation of measures and change of variable factors for certain exporters Expiry of measures for TS Steel Co Ltd
Continuation Inquiry 637	2024/071	11 October 2024	Japan ROK	Continuation of measures Change of variable factors and duty method for Hyundai Steel Company
	Public Notice – Minister’s Decision	18 February 2025	Taiwan Thailand	Affirm the Minister’s decision to continue the measures

Table 4: Past cases for HRSS

²¹ 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.

In its submission of 19 December 2024, Liberty Primary questioned whether the commission had sent an importer questionnaire to Hyundai Steel because the Commissioner considered Hyundai Steel to be the importer of the goods in the SEF.²² The commission clarifies that it undertook verification of Hyundai Steel's information relevant to imports as part of the exporter verification. The commission did not send a separate importer questionnaire to Hyundai Steel.

Exporters

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.

²² [EPR 642](#), no 12, p 22.

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*Cooperative exporters*²³

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.

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

Table 5: REQs received

The commission considers that Hyundai Steel and Dragon Steel are cooperative exporters for the purpose of this review.

Uncooperative exporters

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 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 as it did not give the Commissioner information the Commissioner considered to be relevant to the review within a period the Commissioner considered to be reasonable.

Similarly, 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, relevant information that the Commissioner requested within a period the Commissioner considered to be reasonable.

²³ ‘Cooperative exporter’ is defined in section 269T(1).

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2.4.2 Submissions from interested parties

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

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

Table 6: Submissions received prior to the SEF

Two of the submissions were received 1 week prior to the publication of the SEF. The Commissioner did not have regard to those submissions in the SEF as to do so would prevent the timely publication of the SEF. Those 2 submissions have been considered in this 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.

The commission received the submissions listed in following publication of the SEF. Non-confidential versions of these submissions are available on the EPR.

EPR document number	Interested party and topic of submission	Date received	Considered in this report?
13	Dragon Steel – Response to SEF	19 December 2024	Yes
14	SYS – Response to SEF	18 December 2024	Yes
15	Liberty Primary – Response to SEF	19 December 2024	Yes
16	Hyundai Steel – Response to SEF	19 December 2024	Yes
18	Hyundai Steel – Issues affecting Review 642	26 March 2025	No

Table 7: Submissions received following the SEF

The commission has not considered Hyundai Steel’s submission received on 26 March 2025 as it considers the grounds relating to the ADRP’s findings have been dealt with in section 4.3.2. The commission has not considered Hyundai Steel’s request for an extension of this review as it would delay the case.

3 THE GOODS AND LIKE GOODS

3.1 The goods subject to the measures

ADN 2013/75 defines the goods under consideration as follows:²⁴

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).

²⁴ 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 19104997.²⁵ 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*:²⁶

Reference number	Statistical code	Goods
7216		ANGLES, SHAPES AND SECTION OF IRON OR NON-ALLOY STEEL
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 8: Tariff classification of the goods

²⁵ [EPR EX0077](#), no 4, *Exemption Instrument No 5 of 2019*.

²⁶ 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 9) 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 9: 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 Finding

The Commissioner finds that the variable factors for export price and normal value have changed. The Commissioner recommends to the Minister that the notice have effect 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 dumping margins for the review period are summarised in Table 10.

Country	Exporter	Dumping margin
Japan	Uncooperative and all other exporters	15.8%
ROK	Hyundai Steel	6.8%
	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 10: 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 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.²⁷

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.

²⁷ [EPR 642](#), no 10.

PUBLIC RECORD

Who is the importer?

The commission notes the ADRP's finding in *ADRP Review 2024/172* (which relates to CON 637) that 'the better view of who is the "importer" is the Australian customers.'²⁸ However, having conducted further analysis of the relevant contracts, the commission considers that for all export sales on DDP terms, 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. The commission considers that almost all of Hyundai Steel's Australian sales were at DDP terms during the review period, compared to FOB terms.

For these Australian 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.

In relation to the relevant contracts, the commission has taken the following inclusive factors into account in considering whether or not Hyundai Steel is the importer:

- Price terms being on DDP terms excluding Australian domestic freight.
- A term governing when delivery of the goods is made.
- Payment terms with regard to an irrevocable letter of credit.
- When and how the irrevocable letter of credit is payable.
- Responsibility for insurance.
- Hyundai Steel's responsibility to bear and pay any taxes, duties and contingent charges for exportation and importation of the duties.
- Duty is to be paid by Hyundai Steel together with their expressed right to obtain the associated refund.

Hyundai Steel has responsibility for handling all customs clearance and payment of duties and taxes, amongst other import formalities. This is despite the Australian customers paying for the goods before they arrive in Australia in accordance with an irrevocable letter of credit. The Australian customer cannot benefit from the goods until they are released from Australian customs which is the responsibility of Hyundai Steel.

²⁸ [ADRP Report No. 172](#), p 34, para [78].

PUBLIC RECORD

The commission finds that the goods pass to the Australian customers on delivery based on the commission's wholistic consideration of the contracts (including incorporation of DDP terms) and conduct of Hyundai Steel and its Australian customers. The commission considers the terms of the contract, and the conduct of the parties indicate an intention that beneficial ownership remains with Hyundai until the goods are released from Australian customs, despite payment occurring earlier. The commission finds that Hyundai Steel is the importer at the time the goods arrive in Australia.

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.

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.

PUBLIC RECORD

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 and clearance charges
- interim dumping duty (IDD) or final duty payable.

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

Submissions in response to the calculation of Hyundai Steel's export price

In its submission of 19 December 2024, Hyundai Steel submitted that the amount of duty that is deducted in the calculation of the export price should include amounts that:

- have been finalised since the publication of the SEF
- can be 'reasonably quantified and expected in light of existing duty assessment procedures.'²⁹

Alternatively, Hyundai Steel requested that the export price could be determined 'without any deduction of IDD, whether paid or payable.'

The commission notes that the issues raised in this submission in relation to the calculation of the export price are the same as those considered by the ADRP in *ADRP Report No. 172*.

In respect of whether the export price can be calculated without any deduction of IDD, the ADRP found that:³⁰

the export price should be established at a level that represents an arms length transaction between an exporter and importer excluding all transport and other costs arising after exportation.

Further, the ADRP states that although there is no legislative requirement to deduct IDD under section 269TAB(1)(c), the 'intent of the provision in s 269TAB is to establish an export price excluding any elements in a price that arise in respect to transport of the goods after exportation or any other matter arising after exportation should not be included in a FOB price.'³¹

As the commission has calculated the export price at FOB terms, it is necessary to deduct IDD as it is a 'matter arising after exportation'.

²⁹ [EPR 642](#), no 16, pp 2-4.

³⁰ [ADRP Report No. 172](#), p 47, para [128].

³¹ [ADRP Report No. 172](#), p 51, para [146].

PUBLIC RECORD

In respect of Hyundai Steel's request to deduct an amount of duty that could be 'reasonably quantified and expected in light of existing duty assessment procedures', the commission refers to the ADRP's finding that 'until a decision is made pursuant to s 269Y(1) the only valid amount as a deduction in the export price calculation is the IDD paid.'³² In this instance, this reflects the commission's approach to the calculation of Hyundai Steel's export price where the commission has deducted either the:

- final duty payable where a decision under section 269Y(1) has been made, or
- IDD where a decision under section 269Y(1) has not yet been made.

The commission notes that following the publication of the SEF, a duty assessment for Hyundai Steel which covers part of the review period was finalised under section 269Y(1). The commission has therefore deducted the final duty payable for that duty assessment period from Hyundai Steel's export price, instead of the IDD paid. Accordingly, the dumping margin has changed from 7.0% to 6.8%.

In its submission of 19 December 2024, Liberty Primary queried whether there are any additional costs that were or were not included in the commission's calculation of Hyundai Steel's export price. Liberty Primary also queried the nature of the delivery terms and the proximity to the first arms length transaction.

As outlined in the verification report, Hyundai Steel's sales to its Australian customers (for all delivery terms) were arms length.³³ For the arms length sales at DDP terms, the commission has deducted certain costs from the DDP invoice price to arrive at an FOB price. These costs are:

- ocean freight
- marine insurance (where applicable)
- Australian customs brokerage and clearance charges
- IDD (or final duty where applicable).

There are no other relevant costs or charges incurred in Hyundai Steel's DDP sales to its Australian customers.

Further in this same submission, Liberty Primary questioned whether the commission had access to verified post-importation information from Hyundai Steel that would be relevant circumstances of exportation.³⁴ This includes information such as importer SG&A and profit.

The commission clarifies that at the time of initiation it did not send an importer questionnaire to Hyundai Steel, as any importer related information would be covered as part of the exporter verification.

³² [ADRP Report No. 172](#), p 42, para [111].

³³ [EPR 642](#), no 10, section 2.3.6.

³⁴ [EPR 642](#), no 15, pp 3-4.

PUBLIC RECORD

For its DDP sales to its Australian customers, Hyundai Steel did not incur any additional SG&A or profit. These costs are typically deducted as part of an export price calculation where an intermediary is used in order to reflect the additional level of trade. In this circumstance, as Hyundai Steel sells directly to the Australian customer (albeit on DDP terms), there are no additional costs incurred.

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 13.

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.

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 269TAA sets out which sales are in the OCOT. Under this section, a domestic like goods sale is not in the OCOT 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.

PUBLIC RECORD

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

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 11 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
Domestic price	Net invoice price for domestic like goods
Cost to make for domestic like goods	Quarterly cost to make and sell the goods, including direct selling expenses for each transaction.
Weighted average cost to make for domestic like goods	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 11: Ordinary course of trade assessment details (Hyundai Steel)

In its submission of 19 December 2024, Liberty Primary questioned the 'material revision' to Hyundai Steel's CTM outlined in the verification report.³⁵ Liberty Primary considers that the revision to the CTM may not account for timing differences between goods produced for the export and domestic markets.

The commission clarifies that as the costs are based on product code, the quarterly CTM reflects the cost incurred to produce a particular product code in that quarter. Thus, regardless of whether the product code is for the export or domestic market, the CTM reflects the cost incurred in the quarter of production.

Liberty Primary also queried which cost base the domestic sales were compared to as part of the OCOT test. The commission tests whether domestic sales of like goods are profitable and recoverable by comparing the unit price to the corresponding domestic CTM. The commission has clarified this in Table 11.

³⁵ [EPR 642](#), no 15, p 5.

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 12 details the commission’s findings about domestic sales volumes for each corresponding Australian export sales model.

Export MCC	Sufficient volume of domestic sales in OCOT?	Treatment of normal value
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 12: 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).

Adjustments to the normal value

Table 13 summarises the adjustments made to Hyundai Steel’s normal value to properly compare the export price to the corresponding normal value.

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

Table 13: Summary of adjustments (Hyundai Steel)

PUBLIC RECORD

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 **6.8%**.

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

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

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

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

The commission has ascertained the normal value for uncooperative and 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.³⁶ 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 499.³⁷

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.

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 changed³⁸
- the commission has assessed that the price of imports from Taiwan has changed.³⁹

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

³⁶ [EPR 642](#), no 7.

³⁷ [EPR 499](#), no 22.

³⁸ [EPR 642](#), no 2, pp 19-20.

³⁹ [EPR 642](#), no 3, p 7.

PUBLIC RECORD

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.⁴⁰

In its submission of 19 December 2024, Dragon Steel highlighted the intent behind the implementation of section 269TAB(2A) as contained in the explanatory memorandum.⁴¹ Dragon Steel considers that the examination under section 269TAB(2A) as detailed in the explanatory memorandum is ‘to understand and determine whether the exporter had “adopted a strategy of low volume exports in an attempt to exploit the unintended consequence of the review of measures to obtain a more favourable rate of duty”’.⁴²

The commission has not made any finding that Dragon Steel had adopted a strategy to subvert the measures as part of its low volume of exports.

As outlined below, the commission has made its assessment pursuant to the legislative requirements under section 269TAB(2A). 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 considers that Dragon Steel’s volume of exports in the review period was lower compared to previous periods where Dragon Steel exported the goods to Australia. There has since been a long period where Dragon’s Steel’s exports have been absent.

Dragon Steel’s exports ceased in a period of contracting demand in the Australian HRSS market, consistent with other exporters. However, Dragon Steel did not resume exporting in the subsequent period of increased demand. 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 has examined each factor relevant to the test under section 269TAB(2A) in further detail.

⁴⁰ Section 269TAB(2A)(i), (ii) and (iii).

⁴¹ Explanatory memorandum to *Customs Amendment (Anti-Dumping Measures) Bill 2017*.

⁴² [EPR 642](#), no 13, p 1.

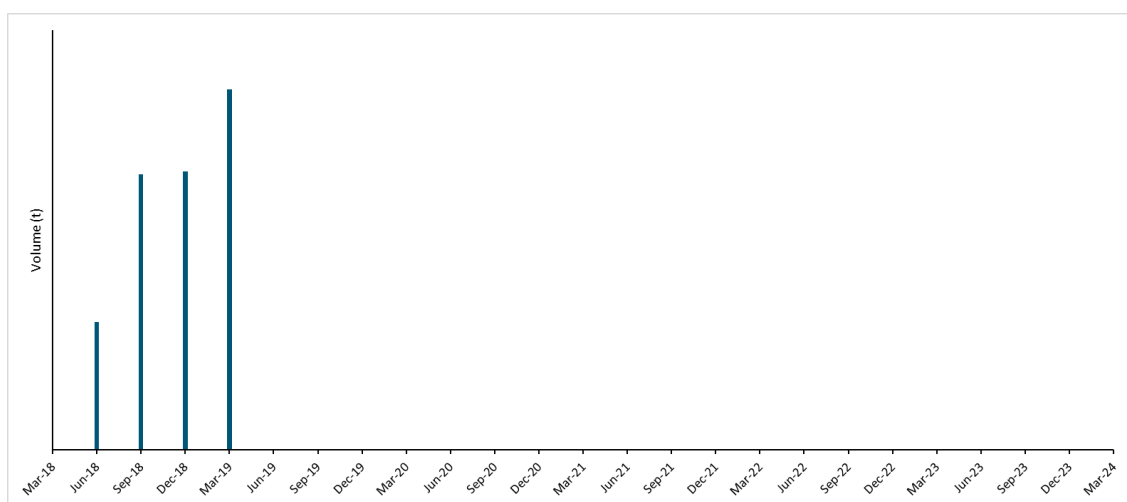
Previous volumes of exports by Dragon Steel

The commission has assessed the previous volumes of exports by Dragon Steel using 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



In its submission of 19 December 2024, Dragon Steel considered that the commission’s assessment under section 269TAB(2A)(i) was ‘too simple’.⁴³ Dragon Steel considers that the commission should consider the relative volumes from Dragon Steel compared to other exporters. Dragon Steel considers that this would demonstrate that it has always been a ‘low volume exporter’. When assessed this way, Dragon Steel considers that its lack of exports is not that much lower than its previous volume of exports.

The commission has limited its assessment under section 269TAB(2A)(i) to Dragon Steel’s exports only. A comparison of Dragon Steel’s exports with all other exporters is considered under section 269TAB(2A)(ii).

⁴³ [EPR 642](#), no 13, p 2.

PUBLIC RECORD

The commission considers that an absence of exports for a period can amount to a 'low volume' when compared to a previous period of exports. In relation to Dragon Steel, the commission acknowledges that Dragon Steel's volumes were historically lower than some other exporters, but more relevantly it considers that the reason for Dragon Steel's lack of exports must be considered as part of the whole test under section 269TAB(2A). As outlined below, the commission considers that the reason for an absence of exports from Dragon Steel is primarily caused by factors outside its control.

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.

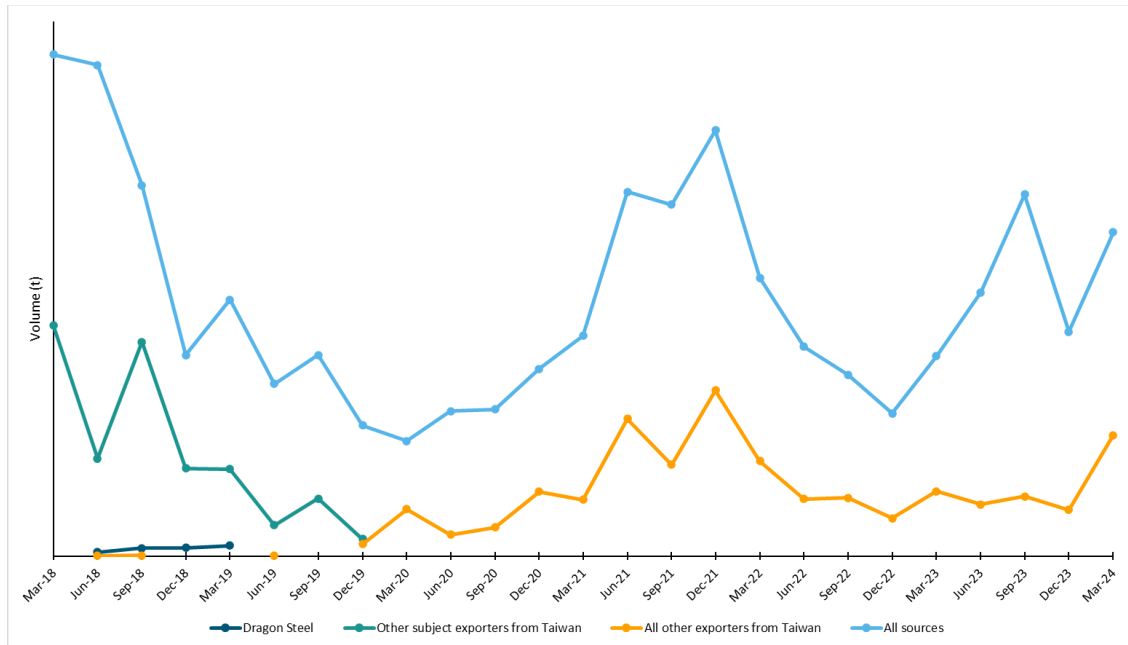
The commission considers that this indicates that:

- 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.

PUBLIC RECORD

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.

Figure 2: Quarterly imports of HRSS from all sources



In its submission of 19 December 2024, Dragon Steel considers that the commission's assessment 'overlooks critical evidence which supports the view that [Dragon Steel's] exports are likely to be consistently exported in low volumes.'⁴⁴ Dragon Steel claims that the differences in patterns of trade between its exports and those of other exporters are due to:

- Dragon Steel's requirement for minimum order quantities per profile and size, limiting potential customers
- contracting demand in the HRSS market at the time when Dragon Steel did export to Australia.

Dragon Steel considers that there is no evidence to support that it changed its exporting behaviour in response to a change in the measures.

The commission has made some minor revisions in this report to its findings from SEF 642 upon further consideration of Dragon Steel's export behaviour.

⁴⁴ [EPR 642](#), no 13, pp 2-3.

PUBLIC RECORD

The assessment of whether exports are low volume is a wholistic test under section 269TAB(2A). Dragon Steel's exports ceased in a period of contracting demand in the Australian HRSS market. The fact that Dragon Steel's exports did not resume in the period of increased demand is not consistent with the pattern of trade for exports from all countries. However, the period of increased demand coincides with a period in which the only exports from Taiwan are those not subject to measures. As outlined below, the commission considers that DSC was unable to compete with these exporters which were not subject to the measures.

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.

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 information⁴⁵
- 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.

⁴⁵ [EPR 499](#), no 22.

PUBLIC RECORD

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**.

In its submission of 19 December 2024, Liberty Primary considers that using third country sales information is preferable when calculating Dragon Steel's export price under section 269TAB(3).⁴⁶ This is because it is contemporary information which is capable of verification. Liberty Primary considers that the export price from REV 499 is not reliable due to the change in market conditions over time.

The commission notes that the legislation does not prescribe a method to determine the export price under 269TAB(3). Nevertheless, the commission has considered whether to use third country sales instead of adjusting Dragon Steel's previous export price from REV 499.

The *Dumping and Subsidy Manual* (the Manual) outlines the commission's considerations when assessing whether to use third country sales under section 269TAC(2)(d).⁴⁷ Although that section relates to determining a normal value, the commission considers that the guidance is relevant when assessing whether to use third country sales for the purpose of an export price.

An important consideration is whether there is an appropriate third country. When determining whether a third country is appropriate, the commission will compare the volume and nature of trade from the country of export to the third country to the respective trade between the country of export and Australia.

In this circumstance the commission considers that as it has verified information relating to Dragon Steel's export sales to Australia, using an adjusted export price is preferable. The commission notes that the price has been adjusted using contemporary CTM information provided by Dragon Steel.

⁴⁶ [EPR 642](#), no 15, p 6.

⁴⁷ [The Manual](#), Chapter 10.

Normal value

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

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 catalogue⁴⁸ 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.

In its submission of 19 December 2024, Liberty Primary queried the grades that Dragon Steel sold on the domestic market, and the comparability to those exported to Australia.⁴⁹ Liberty Primary also noted that a non-confidential attachment from Dragon Steel's REQ was not provided. The commission has now included Dragon Steel's catalogue at **Non-confidential Attachment 14**.

⁴⁸ Dragon Steel Corporation, [DSC Catalogue – Specification](#), Dragon Steel Corporation website, n.d., accessed 17 May 2024.

⁴⁹ [EPR 642](#), no 15, pp 5-6.

PUBLIC RECORD

A summary of the relevant standards and reference to the catalogue are provided in Table 14. Standard AS/NZS 3697.1 was not sold during the review period and is provided for reference.

Standard	Grade	Page reference
AS/NZS 3697.1	300	36-37
CNS 2473	SS400	16
CNS 2947	SM400A	17-19
CNS 2947	SM400AA	17-19
CNS 2947	SM400B	17-19
CNS 2947	SM490A	17-19
CNS 2947	SM490AA	17-19
CNS 2947	SM490B	17-19
CNS 2947	SM490BA	17-19
CNS 2947	SM490YA	17-19
CNS 2947	SM490YB	17-19
CNS 2947	SM570	17-19
CNS 13812	SN400A	20-23
CNS 13812	SN400B	20-23
CNS 13812	SN400C	20-23
CNS 13812	SN400YB	20-23
CNS 13812	SN400YC	20-23
CNS 13812	SN490B	20-23
CNS 13812	SN490C	20-23
CNS 13812	SN490YB	20-23
CNS 13812	SN490YC	20-23
CSC	SM570MB	42-43

Table 14: Relevant Dragon Steel standards

The commission notes that the standards provide a range of yield strengths for certain grades. The commission compared the net invoice price where the same grade was sold with different yield strength and that there was no price difference. Accordingly, the commission has not made any adjustments to the MCC categorisation based on yield strength. The commission's assessment is at **Confidential Attachment 15**.

PUBLIC RECORD

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.

Are domestic sales in the OCOT?

Section 269TAAD sets out which sales are in the OCOT. Under this section, a domestic like goods sale is not in the OCOT 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 OCOT.

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 15 summarises the information the commission has used to assess if Dragon 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 15: Ordinary course of trade assessment details (Dragon 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.

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 16Table 12 details the commission's findings about Dragon Steel's domestic sales volumes for each corresponding Australian export sales model.

Export MCC	Is MCC's domestic sales volume 5% or greater the export sales volume?	Treatment of normal value
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 16: 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).

PUBLIC RECORD

Adjustments to the normal value

Table 17 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.

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

Table 17: Adjustments to normal value (Dragon Steel)

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

Dumping margin

The 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

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

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

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

PUBLIC RECORD

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.

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.

PUBLIC RECORD

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).

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.⁵⁰

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.

⁵⁰ [EPR 642](#), no 2, pp 20-21.

PUBLIC RECORD

In its submission of 19 December 2024, Liberty Primary provided domestic price data for like goods sold in the Thai domestic market.⁵¹ The commission considers that while this information relates to like goods sold in Thailand, it is not preferable to using the adjusted normal value calculated by the commission.

The commission considers that the adjusted normal value is the most appropriate as:

- the information provided by Liberty Primary is for domestic pricing only
- the adjusted normal value includes adjustments to domestic prices to make them comparable to export sales
- the adjusted normal value is based on previously verified information for Thai exporters.

Dumping margin

The 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**.

⁵¹ [EPR 642](#), no 15, pp 6-7.

5 VARIABLE FACTOR – NON-INJURIOUS PRICE

5.1 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.

Unsuppressed selling price

The Manual provides a hierarchy of options for establishing a USP:⁵²

- 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.

⁵² [The Manual](#), pp 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*.⁵³ 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.

⁵³ [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.⁵⁴

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.⁵⁵

As a result of the ADRP's recommendations, the lesser duty rule applied to exports from SYS.⁵⁶

Continuation Inquiry 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.

⁵⁴ 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.

⁵⁵ [ADRP Report No. 120](#), p 80.

⁵⁶ [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 a 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.⁵⁷ 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.

⁵⁷ 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.

In its submission of 19 December 2024, Liberty Primary questioned whether the commission had access to verified information from Hyundai Steel that could be used as deductions to arrive at the NIP.⁵⁸

Due to how Hyundai Steel's export sales are structured, the importer related information from Hyundai Steel is limited to:

- ocean freight
- marine insurance
- Australian customs brokerage and clearance fees.

Hyundai Steel did not incur additional SG&A costs or profit from its sales to Australia that are relevant for calculating the NIP. Accordingly, the commission relied upon the verified post-importation costs from REV 499 in order to calculate the NIP.

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.

⁵⁸ [EPR 642](#), no 15, p 3.

6 DUTY METHOD

6.1 Consideration

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* (the guidelines).⁵⁹

6.3 Duty methods and effective rates of duty

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

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

⁵⁹ [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 18.

Country	Exporter	Duty method and fixed IDD rate	
		Current	Recommended
Japan	Uncooperative and all other exporters	12.2% Combination	15.8% Combination
ROK	Hyundai Steel Company	5.2% <i>ad valorem</i>	6.8% <i>ad valorem</i>
	Uncooperative and all other exporters	7.9% Combination	12.5% Combination
Taiwan	Dragon Steel Corporation	9.0% Combination	7.0% Combination
	Uncooperative and all other exporters	12.3% Combination	10.8% Combination
Thailand	Siam Yamato Steel Co Ltd	7.8% Combination	5.7% Combination
	Uncooperative and all other exporters	7.7% Combination	

Table 18: Current and recommended duty methods and measures

Submissions in response to the duty method

Dragon Steel

In its submission of 19 December 2024 Dragon Steel requested a change to the duty method proposed by the commission to apply to its exports.⁶⁰ Dragon Steel submits that a floor price duty method should be applied instead of the existing combination duty for two key reasons:

- Current distortion in the Australian HRSS market resulting from issues with the blast furnace at the Whyalla Steelworks.
- Dragon Steel has limited Australian market presence and sales volumes due to its requirement for minimum order quantities.

Dragon Steel raised concerns that Australian production capacity restraints are distorting Australian market conditions, and as a result, the current dumping methods are favouring those exporters currently exempt from the measures, and those with *ad valorem* rates of duty in place.

⁶⁰ [EPR 642](#), no 13, pp 4-5.

Dragon Steel contends that maintaining the current combination duty method may lead to dumping duties that are excessive and punitive, which may further exacerbate the current distorted market conditions and possible short supply. It submits that implementing a floor price measure at the ascertained normal value would be more suitable, reducing the possibility of injury to the Australian industry as the proposed non-dumped floor price is well above contemporary market price offers.

SYS

In its submissions dated 28 October 2024 and 18 December 2024, SYS requested a change to the proposed duty method from the current combination method to an *ad valorem* rate (7.8%).⁶¹ SYS submits that an *ad valorem* duty measure should be applied to its exports for the following reasons:

- Current distortion in the Australian HRSS market resulting from reduced Australian supply, which will likely create detriment for the ‘...Australian construction industry, steel fabricators and ultimately the broader economy’.
- A lack of intention of SYS to engage in predatory pricing or cause material injury to domestic prices as demonstrated by the fact it supplies products to a sole supplier in Australia, Southern Steel.

In its submission dated 28 October 2024 SYS contends ‘...it is critically important that the Commission, and the Minister for Industry and Science, ensure that the imposed anti-dumping measures go no further than removing the effects of injurious dumping’ and ‘...do not impose an unfair barrier to entry’ when the market is facing short supply.

Commission’s consideration of claims by Dragon Steel and SYS

The commission has had regard to the guidelines, the above submissions and relevant factors influencing the Australian HRSS market. The commission considers the combination method remains the most appropriate duty method for both exporters. Neither Dragon Steel nor SYS has provided specific evidence to demonstrate the market distortion referenced in the above submissions. They also did not demonstrate how the fixed price floor method or *ad valorem* measure are more appropriate for maintaining market stability and managing the potential adverse impacts of dumping that may arise as a result of any supply shortage. Additionally, SYS did not cooperate with the review, therefore the commission was unable to verify SYS’s exports and the arms length nature of them, which is a consideration in relation to the appropriate duty method.

The commission considers that the combination method is the most appropriate duty method in the current circumstances. The commission considers that the issues at the Whyalla Steelworks, while not directly related to dumping, have left the Australian industry vulnerable to injury from dumped exports. The combination duty method provides a degree of stability to export prices by ensuring that prices do not fall below the floor price component. In these circumstances, the combination method is the most appropriate duty method to remedy the injurious effects of dumping.

⁶¹ [EPR 642](#), nos 11 and 14.

PUBLIC RECORD

Liberty Primary

In its submission of 22 November 2024, Liberty Primary provided reasons why it considers that Hyundai Steel should be subject to a combination duty. Liberty Primary submits:

- the dumping export price (DXP) for Hyundai Steel will not be same as the export price ascertained by the commission, which may lead to an under collection of duty
- the complexity of the calculation of the export price for Hyundai Steel contributes to the potential difference to the DXP
- Hyundai Steel previously increased its level of dumping when it was subject to *ad valorem* duties from 2014 to 2018
- Hyundai Steel has the capability to estimate the amount of IDD it will be required to pay, therefore any amount of IDD collected cannot be punitive or unforeseen
- the combination method is never punitive for commodity type products
- the duty assessment process ensures that duty paid is not punitive as only the required amount of final duty is paid.

Commission's consideration of claims by Liberty Primary

In respect of Liberty Primary's concerns regarding the difference between the DXP and the ascertained export price, the commission notes several points.

Firstly, the DXP will rarely be equal to the ascertained export price in any circumstance following the implementation of measures or following a review or continuation. The ascertained export price is set at the time that the measures are implemented or revised. In contrast, the DXP is set for each export shipment when it is declared to Australian customs. The DXP is subject to change over time due to many factors, including raw material costs and business considerations. Instructions for how to calculate the DXP are included in the relevant DCR for each type of goods.

Secondly, the commission considers that the behaviour exhibited by Hyundai Steel indicates that it is unlikely to lower its prices to avoid the intended effect of the duty. This was found by the commission in CON 637.⁶² As Hyundai Steel is the entity which pays the IDD and has applied for duty assessments, it is in Hyundai Steel's interest to maintain its export price such that it maximises its potential duty refund. The commission considers that these circumstances present a difference to those present when Hyundai Steel's dumping margin increased between 2014 and 2018. At that time, a majority of Hyundai Steel's sales were at FOB terms and Hyundai Steel did not pay the IDD. As outlined above, due to changes in Hyundai Steel's export sales, it is no longer incentivised to decrease its export price to avoid the effect of the duty.

The commission does not agree with Liberty Primary's claim that the combination method is not punitive for commodity-type goods or when the amount of IDD can be estimated.

⁶² *Anti-Dumping Commission Report 637*, [EPR 637](#), no 25, p 102.

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The combination method can significantly impact importers where market prices fall below the floor price absent of dumping. This could lead to a situation where duty is being collected on exports below the floor price in excess of an amount required to remedy the injurious effects of dumping. The ability to estimate the amount of IDD does not detract from the fact that the amount collected may be in excess. Liberty Primary notes that the duty assessment process allows for any excess IDD paid to be refunded where appropriate. However, the commission considers that the excess IDD is a cost to businesses and should not be imposed where it is not necessary to remedy the injurious effects of dumping.

The commission considers that in the case of Dragon Steel and SYS, the benefits of the combination method outweigh the potential for it to become punitive. This includes ensuring that exporters do not decrease export prices below the floor price, a risk highlighted by Liberty Primary in its submission. However, the commission considers that the same risk is not present with Hyundai Steel for the reasons outlined earlier.

7 FINDINGS AND RECOMMENDATIONS

7.1 Findings

The Commissioner finds 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.⁶³ The Commissioner has found that:

- the export price has changed
- the normal value has changed
- the NIP has changed.

This section details the relevant findings and recommendation made by the Commissioner.

The commission notes that the Minister is provided with a schedule to this report which outlines the Minister's relevant powers with respect to making a declaration, determinations and being satisfied as to certain findings of fact, consistent with the below.

7.2 Section 269ZDA recommendation

The Commissioner recommends that the Minister declare:

- in accordance with section 269ZDB(1)(a)(iii) and for the purpose of the Act and the Dumping Duty Act, that the notice in relation to exports of the goods to Australia from Japan, the ROK, Taiwan and Thailand with effect from the date of publication of the notice declaring the outcome of the review, are taken to have effect as if different variable factors had been fixed relevant to the determination of duty.

Following from the above recommendation, the Commissioner also considers the following.

The Commissioner considers the Minister ought to determine:

- in accordance with section 269TAAD(4) and for the purpose of working out the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arms length transactions are taken to have been in the OCOT, that the amounts for the cost of production or manufacture of the goods and the administrative, selling and general costs associated with the sale of the goods in the ROK by Hyundai Steel and Taiwan by Dragon Steel are as set out in Confidential Attachments 3 and 9 of REP 642.

⁶³ The variable factors relevant to the determination of duty are the export price, normal value, and NIP.

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- in accordance with section 269TAB(1)(c), having regard to all the circumstances of the exportation of the goods from the ROK by Hyundai Steel to Australia, that the export prices are as set out in Chapter 4 and Confidential Attachment 2 of REP 642.
- in accordance with section 269TAB(3), having regard to all relevant information, that the export prices for Japan, the ROK (all exporters other than Hyundai Steel), Taiwan and Thailand are as set out in Chapter 4 and Confidential Attachments 1, 6, 8 and 12 of REP 642.
- in accordance with section 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in the ROK by Hyundai Steel and Taiwan by Dragon Steel in sales that are arms length transactions, that the normal value of the goods exported to Australia from the ROK by Hyundai Steel and Taiwan by Dragon Steel is the price paid or payable for like goods as set out in Chapter 4 and Confidential Attachments 4 and 10 of REP 642.
- in accordance with section 269TAC(6), having regard to all relevant information, that the normal values for Japan, the ROK (all exporters other than Hyundai Steel), Taiwan (all exporters other than Dragon Steel) and Thailand are as set out in Chapter 4 and Confidential Attachments 1, 6 and 12 of REP 642.
- having applied section 269TACB(2)(a) and in accordance with sections 269TACB(1) and (4), that the goods exported to Australia from Japan, the ROK, Taiwan and Thailand are taken to have been dumped, and the dumping margins for all relevant exporters in respect of those goods is the difference between the weighted average export prices of the goods over the review period and the weighted average of corresponding normal values over that period as set out in Chapter 4 and Confidential Attachments 1, 5, 6, 11 and 12 of REP 642.

The Commissioner considers that the Minister ought to be satisfied:

- in accordance with section 269TAB(3), sufficient information has not been furnished or is not available to enable the export price of the goods exported to Australia from Japan, the ROK (all exporters other than Hyundai Steel), Taiwan and Thailand to be ascertained under the section 269TAB(1) and section 269TAB(2A).

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- in accordance with section 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of the goods exported to Australia from Japan, ROK (all exporters other than Hyundai Steel), Taiwan (all exporters other than Dragon Steel) and Thailand by those exporters identified as uncooperative to be ascertained under the preceding sections of section 269TAC (other than section 269TAC(5D)).

The Commissioner considers that the Minister ought to direct:

- in accordance with section 269TAC(8), that, as the normal value of the goods exported to Australia is the price paid or payable for like goods sold in the ROK by Hyundai Steel and Taiwan by Dragon Steel, the normal value be adjusted for specified differences between like goods sold in the ROK by Hyundai Steel and Taiwan by Dragon Steel and export sales, as set out in Chapter 4 and Confidential Attachments 4 and 10 of REP 642.

7.3 Effect of the review

The Commissioner considers that fixed rate of IDD and duty methods in Table 19 apply from the date of publication of the notice declaring the outcome of the review.

Country	Exporter	Fixed rate of IDD	Duty method
Japan	Uncooperative and all other exporters	15.8%	Combination
ROK	Hyundai Steel	6.8%	<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 19: Measures resulting from this review

8 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Japan and Thailand variable factors
Confidential Attachment 2	Hyundai Steel export price
Confidential Attachment 3	Hyundai Steel CTMS
Confidential Attachment 4	Hyundai Steel normal value
Confidential Attachment 5	Hyundai Steel dumping margin
Confidential Attachment 6	All other exporters from ROK variable factors
Confidential Attachment 7	Assessment of imports
Confidential Attachment 8	Dragon Steel export price
Confidential Attachment 9	Dragon Steel CTMS
Confidential Attachment 10	Dragon Steel normal value
Confidential Attachment 11	Dragon Steel dumping margin
Confidential Attachment 12	All other exporters from Taiwan variable factors
Confidential Attachment 13	USP and NIP
Non-confidential Attachment 14	Dragon Steel Catalogue
Confidential Attachment 15	Dragon Steel MCC Analysis