



Australian Government  
Australian Customs and  
Border Protection Service

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**INTERNATIONAL TRADE REMEDIES BRANCH**

**INVESTIGATION**

**ALLEGED DUMPING OF CERTAIN HOLLOW  
STRUCTURAL SECTIONS EXPORTED FROM THE  
PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC  
OF KOREA, MALAYSIA, TAIWAN AND THE  
KINGDOM OF THAILAND**

**AND**

**ALLEGED SUBSIDISATION OF HSS EXPORTED  
FROM THE PEOPLE'S REPUBLIC OF CHINA**

**PRELIMINARY AFFIRMATIVE  
DETERMINATION NO 177A**

**6 June 2012**

THIS DOCUMENT AND ANY VIEWS OR RECOMMENDATIONS CONTAINED THEREIN ARE  
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RECOMMENDATIONS

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**ABBREVIATIONS**

ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901</i>
ASA	the Australian Steel Association
Australian industry	the Australian industry producing HSS
ATM	OneSteel Australian Tube Mills Pty Ltd
CEO	Chief Executive Officer of the Australian Customs and Border Protection Service
CON177	International Trade Remedies Branch Consideration Report No. 177 (the consideration report for this investigation)
China	People's Republic of China
Customs and Border Protection	the Australian Customs and Border Protection Service
GOC	the Government of China
the goods	the goods the subject of the application ('HSS')
HRC	hot-rolled coil
HSS	certain hollow structural sections
Huludao	Huludao City Steel Pipe Industrial Co., Ltd
Minister	the Minister for Home Affairs
NIP	non-injurious price
PAD	preliminary affirmative determination
PAD177	Customs and Border Protection <i>Preliminary Affirmative Determination No 177</i>
PAD177A	Customs and Border Protection <i>Preliminary Affirmative Determination No 177A</i>
Qingdao Xiangxing	Qingdao Xiangxing Steel Pipe Co., Ltd
SBB	Steel business briefing
SEF177	Customs and Border Protection <i>Statement of Essential Facts No. 177 (HSS)</i>
SEI	state-invested enterprise
Thailand	the Kingdom of Thailand
USP	unsuppressed selling price

## 1. SUMMARY AND DECISION

### 1.1 Preliminary affirmative determination

The Delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has made a preliminary affirmative determination (PAD) under s.269TD of the *Customs Act 1901* (the Act)<sup>1</sup> in respect of certain hollow structural sections (HSS) exported to Australia from the People's Republic of China (China) by all exporters other than Huludao City Steel Pipe Industrial Co., Ltd (Huludao) and Qingdao Xiangxing Steel Pipe Co., Ltd (Qingdao Xiangxing).

In making this decision, the Delegate has determined that there appears to be sufficient grounds for the publication of a countervailing duty notice in relation to certain HSS exported to Australia from China.

This report publishes the reasons behind the Delegate's decision to make this PAD (PAD177A).

PAD177A is subsequent to the Delegate of the CEO's PAD in relation to the dumping of HSS exported to Australia from China, Korea, Malaysia and Taiwan, notified in *The Australian* on 23 December 2012 and in Australian Customs Dumping Notice (ACDN) 2011/62 (PAD177).

PAD177A, and the preliminary findings contained within this accompanying report, are made having regard to the preliminary findings contained within Customs and Border Protection's Statement of Essential Facts 177 (SEF177), issued in relation to this investigation on 23 April 2012, submissions received in response to SEF177, and all other relevant information.

SEF177 preliminarily found that the dumping of HSS exported to Australia from China, Korea, Malaysia and Taiwan, and the subsidisation of HSS exported to Australia from China from all exporters other than Huludao and Qingdao Xiangxing, has caused material injury to the Australian industry producing like goods.

Consequently, SEF177 proposed to recommend to the Minister for Home Affairs (the Minister) that a dumping duty notice be published in respect of HSS exported to Australia from China, Korea, Malaysia and Taiwan by all exporters; and a countervailing duty notice be published in respect of HSS exported to Australia from China from all exporters other than Huludao and Qingdao Xiangxing.

### 1.2 Provisional measures

Following PAD177, the Delegate of the CEO considered that Customs and Border Protection should require and take securities under s.42 of the Act in respect of interim dumping duty that may become payable in relation to HSS from China, Korea, Malaysia and Taiwan.

<sup>1</sup> References to any section or subsection shall be references to sections or subsections of the *Customs Act 1901* unless otherwise specified.

These securities were imposed on goods entered for home consumption on or after 10 January 2012.

Following the making of PAD177A, Customs and Border Protection has decided to not require and collect countervailing securities at this time.

PUBLIC RELEASE

## 2. INTRODUCTION

### 2.1 Initiation

On 12 August 2011, OneSteel Australian Tube Mills Pty Ltd (ATM) lodged an application<sup>2</sup> for the publication of a dumping duty notice in respect of HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand, and a countervailing duty notice in respect of HSS exported to Australia from China.

Additional information was received from ATM on 26 August 2011.

Following an examination of the application, the delegate of the CEO decided not to reject the application, and an investigation into the alleged dumping and subsidisation of HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand was initiated on 19 September 2011.

Customs and Border Protection published a notice in *The Australian* newspaper on the date of initiation, and released ACDN 2011/43, which contains further details on the investigation.

The investigation period, used to determine whether dumping and subsidisation has occurred, was established as being from 1 July 2010 to 30 June 2011.

Customs and Border Protection has examined the Australian market and the economic condition of the industry from 1 July 2007 for the purposes of injury analysis.

### 2.2 Previous investigations

Customs and Border Protection has previously conducted several investigations, (including reinvestigations, reviews and continuation inquiries) into HSS and specific sub-categories of HSS from various countries.

These have included:

- 2006/2007 Investigation (Report No. 116);
- 2008/2009 Review (Report No. 143);
- 2008/2009 Investigation (Report No. 144);
- 2009 Continuation Inquiry (Report No. 147); and
- 2009/2010 Review (Report No. 153).

A summary of these investigations is in Customs and Border Protection's consideration report for the investigation (CON177).

### 2.3 PAD177

On 23 December 2011 the CEO publicly notified that a PAD had been made in relation to the dumping of HSS exported to Australia from China, Korea, Malaysia and Taiwan.

<sup>2</sup> under s.269TB of the Act

Following this PAD, Customs and Border Protection has required, and is taking, securities in respect of any interim dumping duty that may become payable in respect of HSS exported to Australia from China, Korea, Malaysia and Taiwan that are entered for home consumption on or after 10 January 2012.

## 2.4 SEF177

On 23 April 2012, Customs and Border Protection published SEF177, containing its preliminary findings in relation to HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand.

SEF177 preliminarily found:

*...the dumping of HSS exported to Australia from China, Korea, Malaysia and Taiwan, and the subsidisation of HSS exported to Australia from China, has caused material injury to the Australian industry producing like goods.*

Further, SEF177 proposed to recommend to the Minister for Home Affairs (the Minister):

*...a dumping duty notice be published in respect of HSS exported to Australia from China, Korea, Malaysia and Taiwan, and a countervailing duty notice be published in respect of HSS exported to Australia from China.*

The detailed reasons for this preliminary finding are contained in SEF177 and its appendices.

In making PAD177A, the Delegate has had regard to the preliminary findings in SEF177, submissions received in response to SEF177, and all other relevant information.

Due to the recent nature of SEF177, Customs and Border Protection has largely not sought to repeal the preliminary findings of SEF177 in this PAD report.

However, where repetition of the findings of SEF177 are necessary for the context of this PAD report, or where the preliminary findings of SEF177 have altered, this has been included in this report.

### **3. ABILITY TO MAKE PAD AND TAKE SECURITIES**

#### **3.1 Ability to make a PAD**

At any time not earlier than 60 days after the date of initiation of an investigation as to whether there are sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice, in respect of goods the subject of an application, the CEO (or his Delegate) may, if he or she is satisfied:

- that there appears to be sufficient grounds for the publication of such a notice; or
- that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods;

make a PAD under s.269TD to that effect.

In deciding whether to make a PAD, the CEO must have regard to the application concerned, and to any submissions concerning publication of the notice that are received by Customs and Border Protection within 40 days after the date of initiation of the investigation.

The CEO may also have regard to any other matters that the CEO considers relevant.

The CEO is not obliged to have regard to any submission received after day 40 if to do so would prevent the timely consideration of whether or not to make a PAD.

#### **3.2 Ability to Take Securities**

Customs and Border Protection may, at the time of making a PAD or at any later time during the investigation, require and take securities under s.42 in respect of interim duty that may become payable if the officer of Customs and Border Protection taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

Following PAD177, the Delegate of the CEO considered that Customs and Border Protection should require and take securities under s.42 of the Act in respect of interim dumping duty that may become payable in relation to HSS from China, Korea, Malaysia and Taiwan.

Following the making of a countervailing PAD (PAD177A), the Delegate may also decide to require and take securities in respect of any interim countervailing duty that may become payable in respect of HSS from China. However, having regard to the quantum of the dumping securities currently in place, the due date for Customs and Border Protection's final report to the Minister in this investigation, and the operation of the collection and later conversion of securities system, Customs and Border Protection has decided to not require and collect countervailing securities at this time.

However, if the Delegate becomes satisfied at a later date that countervailing securities should be collected in order to prevent material injury occurring while



the investigation continues, Customs and Border Protection may require and take such countervailing securities in the future. Any such imposition of countervailing securities will be subject to a separate public notification.

PUBLIC RECORD

## 4. THE GOODS UNDER CONSIDERATION

### 4.1 The goods

The goods the subject of the application (the goods) are:

*certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.*

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

The application includes the following information to clarify the nature of the goods.

#### Finishing

All HSS regardless of finish is included in the application.

Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

CHS with other than plain ends (such as threaded, swaged and shouldered) are also included in the application.

#### Standards

HSS is generally produced to either the British Standard BS 1387 or the Australian Standard AS 1163 or international equivalent standards (including ASTM/JIS and KS).

HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals (MPa).

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

#### Excluded goods

The following categories are excluded from the goods subject of the application:

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);
- precision RHS with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes to AS.2556.

#### 'Structural' sections

For clarification, the goods subject to the measures include all electric resistance welded pipe and tube made of carbon steel meeting the above description of the goods (and exclusions), regardless of whether or not the pipe or tube meets a specific structural standard or is used in structural applications.

#### Tariff classification

At initiation, Customs and Border Protection understood the goods to be classified to the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995 (the Tariff Act):

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);
- 7306.61.00 (statistical codes 21, 22 and 23); and
- 7306.69.00 (statistical codes 26, 27 and 28).

Since initiation, the statistical codes related to these relevant subheadings have been altered, and the goods are now classified to the following tariff subheadings:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);
- 7306.61.00 (statistical codes 21, 22 and 25); and
- 7306.69.00 (statistical code 10).

The goods exported to Australia:

- from Korea and Taiwan are subject to a 5% rate of duty;
- from China and Malaysia are subject to a 4% rate of duty; and
- from Thailand using Thailand Free Trade Agreement rates are free from duty as of 1 January 2010.

There are numerous Tariff Concession Orders applicable to the relevant tariff subheadings.

## **4.2 Like goods and Australian industry**

Detailed discussion of Customs and Border Protection's preliminary findings as to the existence of an Australian industry producing like goods are contained within SEF177 at Chapters 3 and 4.

Customs and Border Protection has not altered its position on these matters since releasing SEF177 on 23 April 2012, and affirms them in this PAD report.

In summary, Customs and Border Protection considers that:

- there is an Australian industry consisting of persons who produce like goods in Australia in the form of ATM and three other manufacturers;
- the HSS manufactured or produced in Australia are like goods; and
- the like goods were wholly manufactured in Australia.

PUBLIC RECORD

## 5. AUSTRALIAN INDUSTRY AND AUSTRALIAN MARKET

Details of Customs and Border Protection's preliminary findings regarding the existence of an Australian industry producing like goods, and the existence of an Australian market are contained within SEF177 at Chapters 4 and 5 respectively.

Customs and Border Protection has not altered its position on these matters since releasing SEF177 on 23 April 2012, and affirms them in this PAD report.

In summary, Customs and Border Protection preliminarily considers that:

- there is an Australian industry consisting of persons who produce like goods in Australia<sup>3</sup> in the form of ATM and three other manufacturers;
- the like goods were wholly manufactured in Australia; and
- there is an Australian market for HSS, supplied by Australian producers, and by importers which generally supply HSS distributors and (less commonly) end-users.

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<sup>3</sup> In terms of s.269T(4)

## 6. COUNTERVAILING ASSESSMENT

### 6.1 Preliminary findings

Customs and Border Protection has made a preliminary finding that countervailable subsidies have been received in respect of HSS exported to Australia from China by all exporters other than Huludao and Qingdao Xiangxing during the investigation period.

Details of this finding are contained below, as well as in Chapter 7 and Appendix C of SEF177.

### 6.2 Categorisation of exporters

In SEF177, Customs and Border Protection categorised the following six Chinese CHSS exporters as 'selected cooperating exporters' for the purposes of its investigation, and calculated individual subsidy margins for each:

- Dalian Steelforce Hi-Tech Co., Ltd (Dalian Steelforce)
- Huludao
- Hengshui Jinghua Steel Pipe Co., Ltd (Hengshui Jinghua)
- Zhejiang Kingland Pipeline and Technologies Co., Ltd (Zhejiang Kingland)
- Qingdao Xiangxing
- Jiedong Economic Development Testing Zone Tai Feng Qiao Metal Products Co., Ltd (TFQ)

All other HSS exporters from China were considered to be selected non-cooperating exporters, and a collective 'all other exporter' margin was calculated for these exporters.

This approach has not changed since SEF177.

### 6.3 Summary of countervailable programs

After assessing all relevant information available, Customs and Border Protection has preliminarily found that countervailable subsidies have been received in respect of HSS exported to Australia from China, under 28 subsidy programs.

The findings in relation each investigated program are outlined in the below table.

Program	Countervailable in relation to HSS (Yes/No)
Program 1: Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones	Yes
Program 2: One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'	Yes
Program 3: Provincial Scientific Development Plan Fund	No
Program 4: Export Brand Development Fund	No
Program 5: Matching Funds for International Market Development for Small and Medium Enterprises	Yes
Program 6: Superstar Enterprise Grant	Yes
Program 7: Research & Development (R&D) Assistance Grant	Yes
Program 8: Patent Award of Guangdong Province	Yes
Program 9: Training Program for Rural Surplus Labour Force Transfer Employment	No
Program 10: Preferential Tax Policies for Foreign Invested Enterprises- Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years	Yes
Program 11: Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)	Yes
Program 12: Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai	Yes
Program 13: Preferential Tax Policies in the Western Regions	Yes
Program 14: Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipments	Yes
Program 15: Innovative Experimental Enterprise Grant	Yes
Program 16: Special Support Fund for Non State-Owned Enterprises	Yes
Program 17: Venture Investment Fund of Hi-Tech Industry	Yes
Program 18: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	Yes
Program 19: Grant for key enterprises in equipment manufacturing industry of Zhongshan	Yes
Program 20: Hot rolled steel provided by government at less than fair market value	Yes
Program 21: Water Conservancy Fund Deduction	Yes
Program 22: Wuxing District Freight Assistance	Yes
Program 23: Huzhou City Public Listing Grant	Yes
Program 24: Huzhou City Freight Assistance	No
Program 25: Wuxing District Patent Fee Assistance	No
Program 26: Zhejiang Industry New Product or Technology Award	No
Program 27: Huzhou City Quality Award	Yes (limited to one selected cooperating exporter)
Program 28: Huzhou Industry Enterprise Transformation & Upgrade Development Fund	Yes

Program 29: Land Use Tax Deduction	Yes
Program 30: Wuxing District Public List Grant	Yes
Program 31: Anti-dumping Respondent Assistance	Yes
Program 32: Technology Project Assistance	Yes
Program 33: City Level Patent Model Enterprise	No
Program 34: Balidian Town Public Listing Award	Yes (limited to one selected cooperating exporter)
Program 35: Preferential Tax Policies for High and New Technology Enterprises	Yes

#### 6.4 Program-specific findings

The specific preliminary findings in relation to all programs except Program 20 (discussed below) have not altered since SEF177. Detailed discussion of these findings is contained within Appendix C of SEF177.

#### 6.5 Program 20 – hot rolled steel provided by government at less than fair market value

SEF177 made preliminary findings in relation to Program 20 that Chinese exporters of HSS have benefited from the purchase of hot-rolled coil (HRC) and narrow strip from Chinese state-invested enterprises (SIEs) at less than adequate remuneration.

This involved a preliminary finding that SIEs are 'public bodies' in terms of s.269T of the Act, as well as a preliminary finding that the adequacy of remuneration for HRC and narrow strip purchased from SIEs by HSS manufacturers should be determined as:

- an external black HRC benchmark of average verified Korean, Malaysian and Taiwanese black HRC prices; and
- an external pre-galvanized HRC benchmark of average Taiwanese and Korean pre-galvanized HRC prices

adjusted in line with the following (where appropriate):

- the verified difference between HRC and/or narrow strip in China to arrive at a benchmark for narrow strip; and
- the verified per tonne HRC and narrow strip delivery cost in China to arrive at an ex-works benchmark price.

These preliminary findings were detailed in Appendix C of SEF177.



### 6.5.1 Public bodies

In response to SEF177, the Government of China (GOC) has submitted<sup>4</sup> that SIEs involved in the supply of HRC and narrow strip in China are not 'public bodies' for the purposes of s.269T of the Act.

Customs and Border Protection has reviewed the GOC's position in relation to this point, but continues to preliminarily consider, based on the assessment contained in Appendix C of the SEF, that these SIEs are in fact public bodies within the meaning of s.269T.

### 6.5.2 Adequate remuneration for HRC and narrow strip

In response to SEF177, interested parties made various submissions as to the calculation and reasonableness of the remuneration benchmark. These included submissions that:

- 'there is no legal right to use an external benchmark (based on data out of Chinese markets) under WTO or Australian law, either at all or in the circumstances of this case'.<sup>5</sup>
- the Taiwanese data should not be used in the benchmark as it is unreasonable due to the fact that HRC is supplied to the Taiwanese exporter by a related party;<sup>6</sup>
- the external benchmark needs to be adjusted to take account of the comparative advantages of the Chinese HRC and narrow strip markets;<sup>7</sup>
- several other benchmark options are more appropriate, including:
  - Taiwanese export prices;
  - ATM's own HRC purchases from BlueScope Steel (net of all rebates);
  - ATM's own purchases of imported HRC net of all rebates and other discounts;
  - the lowest undumped HRC cost available;<sup>8</sup>
- the black benchmark is too high, and the relativity between the black and pre-galvanised benchmark is too small;<sup>9</sup> and
- the benchmark is not representative of an actual competitive market price, or a price that could be accessed by Chinese HSS manufacturers.<sup>10</sup>

In light of these submissions, and following further analysis undertaken in relation to the benchmark, Customs and Border Protection has altered its approach to the benchmark taken in SEF177 to preliminarily find it should be calculated as the weighted average of verified domestic black HRC costs incurred by verified

<sup>4</sup> Government of China submission of 16 May 2012

<sup>5</sup> Government of China submission of 16 May 2012

<sup>6</sup> ATM submission of 14 May 2012

<sup>7</sup> Various interested parties, including in the Huludao submission of 14 May 2012 and Dalian Steelforce Hi-tech Co. Ltd (Dalian Steelforce) submission of 1 May 2012.

<sup>8</sup> Various interested parties, including the Australian Steel Association (ASA) submission of 14 May 2012 and Huludao submission of 14 May 2012.

<sup>9</sup> Dalian Steelforce submission of 1 May 2012.

<sup>10</sup> Various interested parties, including the Huludao submission of 14 May 2012.

selected cooperating HSS exporters from Korea, Malaysia and Taiwan, at comparable terms of trade and conditions of purchase to those observed in China, adjusted to account for:

- the increased purchase price of pre-galvanised HRC over black HRC, with reference to the quarterly average purchase price difference between the Steel Business Briefing (SBB) China domestic Shanghai HRC price and the China domestic Shanghai pre-galvanised HRC price<sup>11</sup>;
- differences in delivery terms observed in China (ex-works, delivered); and
- the reduced cost of narrow strip in China.

This results in the following 8 categories of benchmark, to be used as appropriate in determining the adequacy of remuneration for HRC and/or narrow strip paid by HSS exporters:

Benchmark	Basis of calculation
Black HRC delivered	Weighted average of verified domestic black HRC cost used in HSS manufacture of Korean, Malaysian and Taiwanese exporters, delivery included.
Black HRC ex-works	Black HRC delivered benchmark above, minus verified quarterly average delivery costs from one cooperating Chinese exporter.
Black narrow strip delivered	Black HRC delivered benchmark above, minus the quarterly verified average difference between HRC and narrow strip purchase prices by the cooperating Chinese exporters.
Black narrow strip ex-works	Black narrow strip delivered benchmark above, minus verified quarterly average delivery costs from one cooperating Chinese exporter.
Pre-galvanised HRC delivered	Black HRC delivered benchmark above, plus purchase price for galvanising differential (based on SBB Shanghai data).
Pre-galvanised HRC ex-works	Pre-galvanised HRC delivered benchmark above, minus verified quarterly average delivery cost from one cooperating Chinese exporter.
Pre-galvanised narrow strip delivered	Pre-galvanised HRC delivered benchmark above, minus the quarterly verified average difference between HRC and narrow strip purchase prices by the cooperating Chinese exporters.
pre-galvanised narrow strip ex-works	Pre-galvanised narrow strip delivered benchmark above, minus verified quarterly average delivery costs from one cooperating Chinese exporter.

This benchmark has been applied to purchases of HRC and narrow strip manufactured by SIEs during the investigation period, to arrive at an amount of total benefit under this program for each selected cooperating exporter individually. The amount of subsidy for selected non-cooperating exporters was

<sup>11</sup> Reported by SBB as VAT-inclusive, but VAT removed for the purposes of establishing the benchmark.

calculated with reference to the highest individual subsidy rate of the six selected exporters (in the absence of other reliable information).

## 6.6 Preliminary subsidy margins

Customs and Border Protection has calculated the following subsidy margins for each selected cooperating exporter individually and for selected non-cooperating exporters collectively:

Exporter	Product subsidy margins
Dalian Steelforce Hi-Tech Co. Ltd	11.1%
Hengshui Jinghua Steel Pipe Co., Ltd	4.6%
Huludao City Steel Pipe Industrial Co., Ltd	Negligible
Qingdao Xiangxing Steel Pipe Co., Ltd	Negligible
Zhejiang Kingland Pipeline & Technologies Co. Ltd	2.2%
Jiedong Economic Development Testing Zone Tai Feng Qiao Metal Products Co., Ltd	7.9%
Selected non-cooperating exporters	54.8%

The calculation of subsidy margins for each selected cooperating and selected non-cooperating exporter is at **Confidential Attachment 1**.

S.269TDA(2) requires that Customs and Border Protection must terminate a countervailing investigation in relation to an exporter if countervailable subsidisation for that exporter is determined to be negligible.

In relation to goods exported from China (a developing country), countervailable subsidisation is negligible if, when expressed as a percentage of the export price of the goods, that subsidisation is not more than 2%.

Customs and Border Protection notes that for goods exported by Huludao and Qingdao Xiangxing during the investigation period, the subsidy margin is negligible.

Customs and Border Protection will therefore terminate the countervailing investigation in so far as it relates to Huludao and Qingdao Xiangxing on 6 June 2012. Public notification of this termination will be made in *The Australian* newspaper on that date.

## 7. INJURY ANALYSIS

Details of Customs and Border Protection's preliminary findings regarding the injury to the Australian industry are contained within SEF177 at Chapter 8.

In summary, based on an analysis of the information obtained from ATM and Orrcon, Customs and Border Protection is of the preliminary view that the Australian industry has experienced injury in the form of:

- price suppression;
- price depression;
- decreased sales volume; and
- lost profit and profitability.

As explained in SEF177, in the case of concurrent dumping and subsidisation, where it is established that the exported goods are both dumped and subsidised, there is no need to quantify separately how much of the injury being suffered is the result of dumping or subsidisation.

PUBLIC RECORD

## 8. CAUSATION ASSESSMENT

In SEF177, Customs and Border Protection made a preliminary finding that the dumping and subsidisation of the goods exported from China, Korea, Malaysia, and Taiwan has caused material injury to the Australian HSS industry.

Details of this assessment are contained in Chapter 9 of SEF177.

Customs and Border Protection has not altered its position on these matters since releasing SEF177 on 23 April 2012, and affirms them in this PAD report.

PUBLIC FILE

## 9. NON-INJURIOUS PRICE ASSESSMENT

In SEF177, Customs and Border Protection made preliminary findings in relation to the unsuppressed selling price (USP) and NIP it proposed to recommend to the Minister be used in setting interim dumping and countervailing duties as a result of this investigation.

Details of this assessment are contained in Chapter 11 of SEF177, but in summary, a the NIP for the purposes of SEF177 was preliminarily determined to be derived from:

- a USP for each finish of HSS based on the ATM's costs to make and sell from the investigation period plus an amount of profit based on ATM's results for the period January to September 2008; then
- deductions made for amounts for overseas freight, insurance, into store costs, importer expenses and profit, based on verified importer information.

Customs and Border Protection has received and considered several submissions in response to SEF177 that relate to the calculation of a NIP. These included submissions that:

- the overseas freight component of post-exportation costs should be specific to each country to arrive at separate NIPs;<sup>12</sup>
- in establishing the USP, Customs and Border Protection should consider prices in relation to HSS that was:
  - deemed not to be dumped in this investigation;
  - imported by the applicant;
  - imported from countries not subject to this investigation; or
  - from Australian HSS manufacturers "who have not supported the application".<sup>13</sup>
- if a constructed USP was used, the HRC cost should be the lesser of a range of specified HRC cost options; the cost to make and sell should be based on the most efficient Australian manufacturer; and profit should be based on the average Australian HSS industry profitability two years either side of the 2008/09 financial year;<sup>14</sup>
- Customs and Border Protection should consider basing NIPs on ATM's imports from Vietnam, or imports from suppliers found not to be dumping;<sup>15</sup>
- an ATM 'domestic price premium' needs to be taken into consideration in calculating a NIP;<sup>16</sup>
- the SEF177 calculation of NIP used profit numbers from a period of unprecedented profit in the Australian market;<sup>17</sup> and
- NIP calculations should take account of:

<sup>12</sup> ATM submission of 14 May 2012, p. 7-8

<sup>13</sup> ASA submission of 14 May 2012, p. 4

<sup>14</sup> ASA submission of 14 May 2012, p. 5

<sup>15</sup> Sanwa Pty Ltd submission of 9 May 2012.

<sup>16</sup> Howard Consulting submission of 14 May 2012, p. 3

<sup>17</sup> Orrcon submission of 14 May 2012, p. 7

- the necessity for the Australian industry to compete with the lowest priced undumped HSS import competition;
- the benefit of the subsidies paid to Bluescope Steel (as ATM's HRC supplier) and to ATM; and
- any HRC import parity pricing policy in place between Bluescope Steel and ATM.<sup>18</sup>

After reviewing these submissions, as well as all relevant information, Customs and Border Protection preliminarily determines that a NIP should be calculated:

- constructing USPs (calculated separately by finish) based upon the verified CTMS data for ATM in the investigation period plus an amount of profit, based on the weighted average profit rate (measured as a mark-up on full CTMS) of the ATM and Orrcon results for the first nine months of 2008; then
- making deductions for amounts for overseas freight, insurance, into store costs, importer expenses and profit, based on verified importer information (based on averages regardless of country of origin).

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<sup>18</sup> Dalian Steelforce submission of 15 May 2012

## 10. REASONS FOR MAKING A PAD

Customs and Border Protection is of the preliminary view that:

- the goods the subject of the application, exported to Australia from China have benefited from countervailable subsidies;
- there is an Australian industry producing like goods that is experiencing material injury; and
- the dumped and subsidised goods are causing material injury to the Australian HSS industry.

Customs and Border Protection has calculated NIPs and found them to be above Chinese weighted average export prices in all cases. This analysis supports the conclusion that dumped HSS exported to Australia from China, Korea, Malaysia and Taiwan, and subsidised HSS exported to Australia from China, have caused material injury to the Australian industry.

Consequently, the CEO is satisfied there appear to be sufficient grounds for the publication of a countervailing duty notice in respect of the goods the subject of the application exported from certain exporters from China. The Delegate of the CEO has therefore made a preliminary affirmative determination under s.269TD of the Act to that effect.

In making his PAD, the Delegate of the CEO has had regard to the matters outlined in SEF177, and to the matters raised in submissions made following the SEF177 (with limited regard had to submissions received after 1 June 2012, as the CEO considers that consideration of those submissions would likely delay the timely provision of the final report to the Minister<sup>19</sup> and the making of a PAD).

Additionally, the Delegate of the CEO has also had regard to other relevant information and data submitted by interested parties to the investigation and gathered by Customs and Border Protection during its investigation (where appropriate), including:

- verified data submitted in response to the Importer Questionnaire by several importers of HSS;
- verified data submitted by Chinese exporters of HSS in response to the Exporter Questionnaire;
- information submitted by the Government of China in its response to the Government Questionnaire, Supplementary Government Questionnaire, Second Supplementary Government Questionnaire and its submission made on 16 May 2012; and
- data submitted by Australian industry members.

<sup>19</sup> Due on or by 7 June 2012.



## 11. PROVISIONAL MEASURES

S.269TD(4)(b) of the Act states that if the CEO makes a PAD, Customs and Border Protection may, at the time of making that determination or at any later time during the investigation, require and take securities under s.42 of the Act in respect of interim duty that may become payable if the officer of Customs and Border Protection taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

Following the making of PAD177, provisional measures are currently in place in respect of any interim dumping duty that may become payable in respect of HSS exported to Australia from China, Korea, Malaysia and Taiwan.

Having regard to the quantum of the dumping securities currently in place, the due date for Customs and Border Protection's final report to the Minister in this investigation, and the operation of the collection and later conversion of securities system, Customs and Border Protection has decided to not require and collect countervailing securities at this time.

However, if the Delegate of the CEO becomes satisfied at a later date that countervailing securities should be collected in order to prevent material injury occurring while the investigation continues, Customs and Border Protection may require and take such countervailing securities in the future. Any such imposition of countervailing securities will be subject to public notification.