



**Australian Government**  
**Australian Customs and  
Border Protection Service**

---

*CUSTOMS ACT 1901 - PART XVB*

**REPORT TO THE MINISTER NO.177**

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

**7 JUNE 2012**

---



**Australian Government**  
**Australian Customs and**  
**Border Protection Service**

## **Customs Act 1901 - Part XV B**

### **Certain Hollow Structural Sections**

#### **Exported from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan**

#### **Findings in relation to a dumping investigation**

##### **Notice under section 269TG (1) and (2) of the Customs Act 1901**

The Australian Customs and Border Protection Service (Customs and Border Protection) has completed its investigations into the alleged dumping of certain hollow structural sections (the goods), classified to 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) in Schedule 3 of the *Customs Tariff Act 1995*.

In International Trade Remedies Report No. 177 (REP 177) Customs and Border Protection recommended the publication of a dumping duty notice in respect of the goods exported to Australia from China, Korea, Malaysia and Taiwan. REP 177 outlines the investigations carried out by Customs and Border Protection, a statement of the reasons for the recommendations contained in REP 177, material findings of fact or law on which Customs and Border Protection's recommendations were based, and particulars of the evidence relied on to support the findings.

On 6 June 2012, Customs and Border Protection terminated its investigation into the goods exported from Thailand (Termination Report No. 177 sets out the reasons for this termination).

Particulars of the dumping margins established for exporters and an explanation of the methods used to compare export prices and normal values to establish each dumping margin are set out in the following table:

<b>China</b>		
Dalian Steelforce Hi-Tech Co. Ltd	13.4%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss.269TACB(2)(a) of the <i>Customs Act 1901</i> .
Hengshui Jinghua Steel Pipe Co., Ltd	23.7%	
Huludao City Steel Pipe Industrial Co., Ltd	10.1%	
Qingdao Xiangxing Steel Pipe Co., Ltd	18.0%	

Zhejiang Kingland Pipeline & Technologies Co. Ltd	10.2%	
Jiedong Economic Development Testing Zone Tai Feng Qiao Metal Products Co., Ltd.	32.0%	
Selected non-cooperating exporters	57.1%	
<b>Korea</b>		
Kukje Steel Co., Ltd	3.2%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss. 269TACB(2)(a) of the Customs Act 1901.
Selected non-cooperating exporters	8.9%	
<b>Malaysia</b>		
Alpine Pipe Manufacturing SDN BHD	3.0%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss. 269TACB(2)(a) of the Customs Act 1901.
Selected non-cooperating exporters	20.0%	
<b>Taiwan</b>		
Shin Yang Steel Co., Ltd	2.8%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss.269TACB(2)(a) of the Customs Act 1901.
Ta Fong Steel Co., Ltd	2.4%	
Selected non-cooperating exporters	5.3%	

I, JASON CLARE, Minister for Home Affairs, have considered, and accepted, the recommendations of Customs and Border Protection, the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in REP 177. I am satisfied, as to the goods that have been exported to Australia, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods might have been caused if the security had not been taken. Therefore under s.269TG(1) of the Customs Act 1901 (the Act), I **DECLARE** that s.8 of the Customs Tariff (Anti-Dumping) Act 1975 (the Dumping Duty Act) applies to:

- the goods; and
- like goods that were exported to Australia after 23 December 2011 (when the Chief Executive Officer of Customs and Border Protection made a Preliminary Affirmative Determination under s.269TD(4)(a) of the Act that there appeared to be sufficient grounds for the publication of a dumping duty notice) but before publication of this notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been caused, is being caused, or maybe caused in the future. Therefore under ss.269TG(2) of the Act, I **DECLARE** that s.8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from China, Korea, Malaysia and Taiwan.

The considerations relevant to my determination of material injury to the Australian industry caused by dumping are the size of the dumping margins, the effect of dumped imports on prices in the Australian market in the form of price undercutting and the consequent impact on the Australian industry including price depression, price suppression and reduced profits and profitability. In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor other than the exportation of dumped goods, and have not attributed injury caused by other factors to the exportation of those dumped goods.

Interested parties may seek a review of this decision by lodging an application with the Trade Measures Review Officer, in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

Particulars of the export prices, non-injurious prices, and normal values of the goods (as ascertained in the confidential tables to this notice) will not be published in this notice as they may reveal confidential information.

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6275 6173, fax number (02) 6275 6990 or email [itrops3@customs.gov.au](mailto:itrops3@customs.gov.au).

Dated this 12 day of June, 2012.



JASON CLARE  
Minister for Home Affairs

PUB



Australian Government  
Australian Customs and  
Border Protection Service

**Customs Act 1901 - Part XV B**  
**Certain Hollow Structural Sections**  
**exported from**  
**the People's Republic of China (China)**

**Findings in relation to a subsidisation investigation**

**Notice under section 269TJ(2) of the Customs Act 1901**

The Australian Customs and Border Protection Service (Customs and Border Protection) has completed its investigation into the subsidisation of certain hollow structural sections (the goods), classified to tariff subheading 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) in Schedule 3 of the *Customs Tariff Act 1995*, exported to Australia from the People's Republic of China (China).

In International Trade Remedies Report No. 177 (REP 177) Customs and Border Protection recommended the publication of a countervailing duty notice in respect of the goods. REP 177 outlines the investigations carried out by Customs and Border Protection, a statement of the reasons for the recommendations contained in REP 177, material findings of fact or law on which Customs and Border Protection's recommendations were based, and particulars of the evidence relied on to support the findings.

On 6 June 2012, Customs and Border Protection terminated its subsidy investigation with respect to two Chinese exporters Huludao City Steel Pipe Industrial Co., Ltd (Huludao) and Qingdao Xiangxing Steel Pipe Co., Ltd. (Qingdao Xiangxing) (Termination Report No. 177 sets out the reasons for this termination).

Particulars of the subsidy programs and level of subsidisation established for exporters are set out in the following table:

Dalian Steelforce Hi-Tech Co., Ltd.	5 & 20	11.1%
Hengshui Jinghua Steel Pipe Co., Ltd	20	4.6%
Zhejiang Kingland Pipeline & Technologies Co. Ltd	19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 34 & 35	2.2%
Jiedong Economic Development Testing Zone Tai Feng Qiao Metal Products Co., Ltd	20	7.9%

Selected non-cooperating exporters	1, 2, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 28, 29, 30, 31, 32 & 35	54.8%
------------------------------------	---	-------

\* The names and details of each of the above countervailable subsidy programs are contained within REP 177.

I, JASON CLARE, Minister for Home Affairs, have considered, and accepted, the recommendations of Customs and Border Protection, the reasons for the recommendations and the material findings of fact on which the recommendations are based.

I am satisfied that a countervailable subsidy has been received in respect of the goods that have already been exported to Australia; and that a countervailable subsidy may be received in respect of like goods that may be exported to Australia in the future; and because of that, material injury to the Australian industry producing like goods has been caused, is being caused, or maybe caused in the future. Therefore under s.269TJ(2) of the Act, I **DECLARE** that s.10 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from China to Australia (other than Huludao and Qingdao Xiangxing).

The considerations relevant to my determination of material injury to the Australian industry caused by subsidisation are the size of the subsidy margins, the effect of subsidised imports on prices in the Australian market in the form of price undercutting and the consequent impact on the Australian industry including price depression, price suppression and reduced profits and profitability. In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor other than the exportation of subsidised goods, and have not attributed injury caused by other factors to the exportation of those subsidised goods.

Interested parties may seek a review of this decision by lodging an application with the Trade Measures Review Officer, in accordance with the requirements in Division 9 of Part XV B of the Act, within 30 days of the publication of this notice.

Particulars of the non-injurious prices of the goods (as ascertained in the confidential tables to this notice) will not be published as they may reveal confidential information.

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6275 6173, fax number (02) 6275 6990 or email [ltrops3@customs.gov.au](mailto:ltrops3@customs.gov.au).

Dated this 12 day June, 2012.



JASON CLARE  
Minister for Home Affairs

# CONTENTS

<b>CONTENTS</b> .....	<b>7</b>
<b>ABBREVIATIONS</b> .....	<b>10</b>
<b>1. SUMMARY AND RECOMMENDATIONS</b> .....	<b>13</b>
1.1. RECOMMENDATION .....	13
1.2. APPLICATION OF LAW TO FACTS .....	13
1.3. FINAL FINDINGS AND CONCLUSIONS .....	15
<b>2. BACKGROUND</b> .....	<b>20</b>
2.1. INITIATION .....	20
2.2. PREVIOUS CASES .....	20
2.3. PRELIMINARY AFFIRMATIVE DETERMINATION 177 .....	20
2.4. STATEMENT OF ESSENTIAL FACTS 177 .....	21
2.5. PRELIMINARY AFFIRMATIVE DETERMINATION 177 .....	21
2.6. TERMINATION 177 .....	22
2.7. REPORT 177 .....	23
2.8. PUBLIC INTEREST SUBMISSIONS .....	25
<b>3. THE GOODS AND LIKE GOODS</b> .....	<b>27</b>
3.1. FINDINGS .....	27
3.2. THE GOODS .....	27
3.3. TARIFF CLASSIFICATION .....	28
3.4. LIKE GOODS .....	29
3.5. CLAIM: AUSTRALIAN INDUSTRY DOES NOT PRODUCE LIKE GOODS .....	29
3.6. FINDINGS - LIKE GOODS .....	33
<b>4. AUSTRALIAN INDUSTRY</b> .....	<b>35</b>
4.1. FINDINGS .....	35
PRODUCTION PROCESS .....	35
4.3. CONCLUSION – AUSTRALIAN INDUSTRY .....	36
<b>5. AUSTRALIAN MARKET</b> .....	<b>37</b>
5.1. FINDINGS .....	37
5.2. INTRODUCTION .....	37
5.3. MARKET STRUCTURE .....	37
5.4. MARKET SIZE .....	38
<b>6. DUMPING INVESTIGATION</b> .....	<b>39</b>
6.1. FINDINGS .....	39

6.2.	INTRODUCTION .....	39
6.3.	'MARKET SITUATION' ASSESSMENTS .....	42
6.4.	REASONABLENESS OF HSS COSTS IN CHINA .....	43
6.5.	DETERMINATION OF PROFIT FOR CONSTRUCTED NORMAL VALUES IN CHINA .....	50
6.6.	SPECIFICATION, GRADE AND COATING DIFFERENCES .....	52
6.7.	DUMPING MARGINS FOR SELECTED COOPERATING EXPORTERS - CHINA .....	54
6.8.	DUMPING MARGINS FOR SELECTED COOPERATING EXPORTERS - KOREA .....	62
6.9.	DUMPING MARGINS FOR SELECTED COOPERATING EXPORTERS - MALAYSIA .....	64
6.10.	DUMPING MARGINS FOR SELECTED COOPERATING EXPORTERS - TAIWAN .....	66
6.11.	DUMPING MARGINS FOR SELECTED COOPERATING EXPORTERS - THAILAND .....	67
6.12.	DUMPING MARGINS FOR SELECTED NON-COOPERATING EXPORTERS .....	68
<b>7.</b>	<b>SUBSIDY INVESTIGATION.....</b>	<b>72</b>
7.1.	FINDINGS .....	72
7.2.	INVESTIGATED PROGRAMS .....	72
7.3.	SUMMARY OF COUNTERAVAILABLE PROGRAMS .....	74
7.4.	SUBSIDY MARGINS .....	75
<b>8.</b>	<b>ECONOMIC CONDITION OF THE INDUSTRY .....</b>	<b>79</b>
8.1.	FINDINGS .....	79
8.2.	INTRODUCTION .....	79
8.3.	APPROACH TO INJURY ANALYSIS .....	79
8.4.	SUBMISSIONS MADE IN RESPONSE TO REF177 .....	80
8.5.	PRICE DEPRESSION AND SUPPRESSION .....	81
8.6.	VOLUME EFFECTS .....	82
8.7.	LOSS OF MARKET SHARE .....	83
8.8.	PROFIT EFFECTS .....	84
8.9.	OTHER ECONOMIC FACTORS .....	85
	<b>HAVE DUMPING AND SUBSIDY CAUSED MATERIAL INJURY?.....</b>	<b>87</b>
9.1.	FINDINGS .....	87
9.2.	INTRODUCTION .....	87
9.3.	DUMPING .....	87
9.4.	SUBSIDY .....	87
9.5.	CUMULATION OF INJURY .....	88
9.6.	PRICE EFFECTS .....	88
9.7.	VOLUME EFFECTS .....	91
9.8.	PROFIT EFFECTS .....	91
9.9.	OTHER POSSIBLE CAUSES OF INJURY .....	91
9.10.	SUMMARY – CAUSAL LINK.....	95



<b>10. WILL DUMPING AND SUBSIDY AND MATERIAL INJURY CONTINUE?.....</b>	<b>96</b>
10.1. FINDINGS .....	96
10.2. INTRODUCTION .....	96
10.3. CUSTOMS AND BORDER PROTECTION'S ASSESSMENT .....	96
<b>11. NON-INJURIOUS PRICE.....</b>	<b>98</b>
11.1. INTRODUCTION .....	98
11.2. ASSESSMENT OF NIP IN SEF177 .....	98
11.3. SUBMISSIONS IN RESPONSE TO THE SEF .....	99
11.4. FINAL ASSESSMENT OF NIP .....	100
11.5. COMPARISON OF NIPs AND EXPORT PRICES .....	102
<b>12. ANTI-DUMPING AND COUNTERVAILING MEASURES.....</b>	<b>103</b>
<b>13. RECOMMENDATIONS.....</b>	<b>105</b>
<b>LIST OF APPENDICIES AND ATTACHMENTS.....</b>	<b>109</b>
<b>APPENDIX A – ASSESSMENT OF MARKET SITUATION IN CHINA .....</b>	<b>110</b>
<b>APPENDIX B – ASSESSMENT OF COUNTERVAILABILITY OF SUBSIDIES.....</b>	<b>178</b>
<b>APPENDIX C - ASSESSMENT OF ADEQUATE REMUNERATION AND COMPETITIVE MARKET COSTS FOR HRC AND NARROW STRIP IN CHINA.....</b>	<b>249</b>

PUBLIC FILE

**ABBREVIATIONS**

ACDN	Australian Customs Dumping Notice
ADA	the <i>Anti-Dumping Agreement</i>
Alpine	Alpine Pipe Manufacturing Sdn Bhd
ASA	Australian Steel Association
ATM	OneSteel Australian Tube Mills Pty Ltd
Australian industry	the Australian industry producing HSS
CEO	Chief Executive Officer of the Australian Customs and Border Protection Service
CFR	cost and freight
China	People's Republic of China
CON177	Customs and Border Protection <i>Consideration Report No. 177</i> (the consideration report for this investigation)
CRC	cold-rolled coil
CTMS	cost to make and sell
Customs and Border Protection	the Australian Customs and Border Protection Service
Dae Myung	Dae Myung Steel Co., Ltd
Dalian Steelforce	Dalian Steelforce Hi-Tech Co., Ltd
DIT	Department of Internal Trade (Thailand)
Dumping Duty Act	<i>Customs Tariff (Anti Dumping) Act 1975</i>
DXP	dumping export price
ETDZ	economic and technological development zones
FIE	foreign invested enterprise
FOB	free on board
FOT	free on truck
GAAP	generally accepted accounting principles
GOC	Government of China
GOT	Government of Thailand
GQ	Government Questionnaire (China)
HDG	hot-dipped galvanised
Hengshui Jinghua	Hengshui Jinghua Steel Pipe Co., Ltd
HRS	Hot-rolled steel (used in various context to mean HRC and narrow strip collectively; or hot-rolled coil and other types of hot-rolled steel).
HSS	certain hollow structural sections
Huludao	Huludao City Steel Pipe Industrial Co., Ltd
IPP	import parity price
ITM	Independent Tube Mills Pty Ltd
Jinbang	Jinbang Steel Korea Co., Ltd
Korea	the Republic of Korea
Kukje	Kukje Steel Co., Ltd
MEPs	minimum export prices
Minister	the Minister for Home Affairs
NIP	non-injurious price

NSP	the GOC's National Steel Policy
Orrcon	Orrcon Operations Pty Ltd
OneSteel Oil & Gas	OneSteel Oil & Gas Pipe, a division of OneSteel Trading Pty Ltd
Pacific	Pacific Pipe Public Co. Ltd
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
REP148	Customs and Border Protection Report No 148 (aluminium extrusions from China)
REP177	Customs and Border Protection Report to the Minister No 177 (this report)
Saha	Saha Thai Steel Pipe Public Co., Ltd
Samchai	Samchai Steel Industries Public Company Limited
SBB	Steel Business Briefing
SEF	Statement of Essential Facts
SEF177	Customs and Border Protection <i>Statement of Essential Facts No 177</i> (the SEF for this investigation)
SEZ	special economic zone
SGQ	Supplementary Government Questionnaire (China)
Shandong Fubo	Shandong Fubo Group Co
Shin Yang	Shin Yang Steel Co., Ltd
SIE	state-invested enterprise (used interchangeably with 'SOE')
SOE	state-owned enterprise (used interchangeably with 'SIE')
Southern Steel	Southern Steel Pipe Sdn Bhd
SSGQ	Second Supplementary Government Questionnaire (China)
Steelpia	Steelpia Co., Ltd
Tariff Act	<i>Customs Tariff Act 1995</i>
TR177	Customs and Border Protection <i>Termination of Part of an Investigation Report No177</i>
TGO	Thai Government Questionnaire
Thailand	the Kingdom of Thailand
the Act	<i>Customs Act 1901</i>
the countries under consideration	China, Korea, Malaysia, Taiwan and Thailand
the goods	the goods the subject of the application ('HSS')
the Regulations	<i>the Customs Regulations 1926</i>
Tianjin Jinshengde	Tianjin Jinshengde Steel Tube Product Co., Ltd
USP	unsuppressed selling price
WTO	World Trade Organisation
Yieh Phui	Yieh Phui Enterprise Co., Ltd
Yulchon	Yulchon Co., Ltd
Zhejiang Kingland	Zhejiang Kingland Pipeline and Technologies Co.,

	Ltd
Zibo Fubo	Zibo Fubo Steel Pipes Factory
Zibo Litong	Zibo Litong Steel Pipe Co., Ltd

**PUBLIC FILE**

## 1. SUMMARY AND RECOMMENDATIONS

This investigation is in response to an application by OneSteel Australian Tube Mills Pty Ltd (ATM) in relation to the allegation that dumping of certain hollow structural sections (HSS) exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia, Taiwan, and the Kingdom of Thailand (Thailand), and subsidisation of HSS exported to Australia from China, caused material injury to the Australian industry that produces like goods.

This report (REP177) sets out the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service's (Customs and Border Protection) recommendations to the Minister for Home Affairs (the Minister) in relation to the investigation.

### 1.1. Recommendation

The CEO recommends to the Minister that:

- 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 by all exporters other than Huludao City Steel Pipe Industrial Co., Ltd (Huludao) and Qingdao Xiangxing Steel Pipe Co., Ltd (Qingdao Xiangxing).

If the Minister accepts this recommendation to give effect to the decision, the Minister must sign the relevant notices and schedules, under s.269TG(1), 269TG(2), 269TJ(1) and 269TJ(2) of the *Customs Act 1901*<sup>1</sup> (the Act), and s.8 and 10 of the *Customs Tariff (Anti Dumping) Act 1975* (the Dumping Duty Act).

### 1.2. Application of law to facts

#### 1.2.1. Authority to make decision

Division 2 of Part XVB of the Act sets out, among other matters, the procedures to be followed and the matters to be considered by the CEO in conducting investigations in relation to the goods covered by an application for the purpose of making a report to the Minister.

The CEO's powers under this Division have been delegated to certain officers of Customs and Border Protection.

#### 1.2.2. Application

On 12 August 2011, ATM lodged an application requesting that the Minister publish a dumping duty notice in respect of HSS exported to Australia from

---

<sup>1</sup> A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

China, Korea, Malaysia, Taiwan and Thailand, and a countervailing duty notice in respect of HSS exported to Australia from China.

The CEO was satisfied that the application was made in the prescribed manner by a person entitled to make the application.<sup>2</sup>

### 1.2.3. Initiation of investigation

After examining the application, the delegate of the CEO was satisfied that:

- there is an Australian industry in respect of like goods; and
- there appears to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of goods the subject of the application, or for the publication of such notices upon the importation into Australia of such goods.<sup>3</sup>

The CEO decided not to reject the application, and notice of the initiation of this investigation was published on 19 September 2011.<sup>4</sup>

### 1.2.4. Preliminary Affirmative Determinations

On 23 December 2011, the CEO was satisfied that there were sufficient grounds for the publication of a dumping duty notice in respect of HSS exported to Australia from China, Korea, Malaysia and Taiwan, and made a preliminary affirmative determination (PAD)<sup>5</sup> to that effect (PAD177).

Following this PAD, Customs and Border Protection decided to require and take securities<sup>6</sup> in respect of any interim dumping duty that may become payable in respect of HSS from China, Korea, Malaysia and Taiwan that were entered into home consumption on or after 10 January 2012.

On 5 June 2012 the CEO was satisfied that there were sufficient grounds for the publication of a countervailing duty notice in respect of HSS exported to Australia from China by all exporters except Huludao and Qingdao Xiangxing, and made a PAD to that effect (PAD177A).

Customs and Border Protection has decided to not require and take securities in respect of any interim countervailing duty that may become payable in respect of HSS from China at this stage. Countervailing securities may be required and taken by Customs and Border Protection at a later date if considered necessary.

Further detail of these PADs are contained in Chapter 2 of this report.

---

<sup>2</sup> S.269TB

<sup>3</sup> S.269TC(1)

<sup>4</sup> S.269TC(4)

<sup>5</sup> S.269TD

<sup>6</sup> S.42

### 1.2.5. Statement of essential facts

On 23 April 2012, Customs and Border Protection placed its *Statement of Essential Facts No 177* (SEF177) on the Public Record, on which the CEO proposed to base his recommendation to the Minister concerning the publication of a dumping duty notice and a countervailing duty notice in this investigation.

Interested parties were invited to lodge responses to SEF177 by no later than 14 May 2012. Non-confidential versions of all submissions received are available on the Public Record for this investigation.

Further details of SEF177 are contained in Section 2.4 of this report.

### 1.2.6. Report 177

Within 155 days after the initiation of an investigation, or such longer period as the Minister allows<sup>7</sup>, the CEO must give the Minister a final report in respect of the goods the subject of the application (this report).

The Minister granted an extension to the date by which SEF177 had to be placed on the Public Record, and this subsequently extended the period of time for provision of this report to the Minister.

This report was completed on 7 June.

### 1.2.7. Termination 177

After becoming satisfied that:

- the subsidy rate for Huludao and Qingdao Xiangxing during the investigation period was negligible; and
- the total volume of HSS exported to Australia at dumped prices over the investigation period from Thailand was negligible

the CEO terminated the countervailing investigation insofar as it related to Huludao and Qingdao Xiangxing, and terminated the dumping investigation into Thailand on 6 June 2012.

Further details of these terminations are contained in Section 2.6 of this report and in Customs and Border Protection's *Termination of Part of an Investigation Report No 177* (TER177), which was published on 6 June 2012 and is available on the Public Record.

## 1.3. Final findings and conclusions

Customs and Border Protection has made the following findings and conclusions based on all available relevant information.

---

<sup>7</sup> If the date by which the SEF must be placed on the Public Record is extended, this extends the date by which the final report is due to the Minister by a corresponding period – s269TC(4)(bf).

### 1.3.1. Australian industry (Chapter 4 of this report)

Customs and Border Protection has found:

- there is an Australian industry producing like goods; and
- there were four Australian producers of HSS in the investigation period.

### 1.3.2. Dumping investigation (Chapter 6 of this report)

HSS exported to Australia from China, Korea, Malaysia and Taiwan during the investigation period was dumped. The volume of dumped goods from these countries/region, and the dumping margins, were not negligible.

Customs and Border Protection has found that some HSS exported to Australia from Thailand during the investigation period was dumped, but the volume of dumped goods was negligible. Customs and Border Protection has terminated the dumping investigation insofar as it relates to Thailand (see Section 1.2.7 above).

Customs and Border Protection found the following dumping margins:

Exporter	Product dumping margins
<i>China</i>	
Dalian Steelforce Hi-Tech Co. Ltd	13.4%
Hengshui Jinghua Steel Pipe Co., Ltd	23.7%
Huludao City Steel Pipe Industrial Co., Ltd	10.1%
Qingdao Xiangxing Steel Pipe Co., Ltd	18.0%
Zhejiang Kingland Pipeline & Technologies Co. Ltd	10.2%
Jiedong Economic Development Testing Zone Tai Fei Cast Metal Products Co., Ltd	32.0%
Selected non-cooperating exporters	57.1%
<i>Korea</i>	
Kukje Steel Co. Ltd	3.2%
Selected non-cooperating exporters	8.9%
<i>Malaysia</i>	
Alpine Pipe Manufacturing Sdn Bhd	3.0%
Selected non-cooperating exporters	20.0%
<i>Taiwan</i>	
Shin Yang Steel Co., Ltd	2.8%
Ta Fong Steel Co., Ltd	2.4%
Selected non-cooperating exporters	5.3%

### 1.3.3. Subsidy investigation (Chapter 7 of this report)

Following its investigation into 35 alleged subsidy programs, Customs and Border Protection has found that the following 28 programs are countervailable subsidies:

- Program 1: Preferential Tax Policies for Enterprises with Foreign



**Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones**

- Program 2: One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'
- Program 5: Matching Funds for International Market Development for Small and Medium Enterprises
- Program 6: Superstar Enterprise Grant
- Program 7: Research & Development (R&D) Assistance Grant
- Program 8: Patent Award of Guangdong Province
- 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
- Program 11: Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)
- Program 12: Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai
- Program 13: Preferential Tax Policies in the Western Regions
- Program 14: Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipments
- Program 15: Innovative Experimental Enterprise Grant
- Program 16: Special Support Fund for Non State-Owned Enterprises
- Program 17: Venture Investment Fund of Hi-Tech Industry
- Program 18: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.
- Program 19: Grant for key enterprises in equipment manufacturing industry of Zhongshan
- Program 20: Hot rolled steel provided by government at less than adequate remuneration
- Program 21: Water Conservancy Fund Deduction
- Program 22: Wuxing District Freight Assistance
- Program 23: Huzhou City Public Listing Grant
- Program 27: Huzhou City Quality Award
- Program 28: Huzhou Industry Enterprise Transformation & Upgrade Development Fund
- Program 29: Land Use Tax Deduction
- Program 30: Wuxing District Public List Grant
- Program 31: Anti-dumping Respondent Assistance
- Program 32: Technology Project Assistance
- Program 34: Balidian Town Public Listing Award
- Program 35: Preferential Tax Policies for High and New Technology Enterprises

Subsidy margins determined for Chinese exporters are:

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	Nil
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	54.7%

Countervailable subsidies that were not negligible were received in respect of HSS exported from China to Australia in the investigation period by all but two Chinese exporters. Customs and Border Protection has terminated the subsidy investigation so far as it relates to the two exporters with nil or negligible subsidy margins (see Section 1.3).

#### 1.3.4. Economic condition of the industry (Chapter 8 of this report)

During the investigation period, the Australian industry producing like goods experienced injury in the form of:

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

#### 1.3.5. Have dumping and subsidisation caused material injury? (Chapter 9 of this report)

Customs and Border Protection has found that dumping and subsidisation caused material injury to the Australian industry.

#### 1.3.6. Will dumping and subsidy and material injury continue? (Chapter 10 of this report)

Customs and Border Protection found:

- exports of HSS from China, Korea, Malaysia and Taiwan in the future may be at dumped prices;
- exports of HSS from China in the future may be at subsidised prices; and
- continued dumping or subsidisation may cause further material injury to the Australian industry.

#### 1.3.7. Recommendation

Based on these findings, the CEO recommends to the Minister that:

- a dumping duty notice be published in respect of HSS exported to

Australia by all exporters from China, Korea, Malaysia and Taiwan;  
and

- a countervailing duty notice be published in respect of HSS exported to Australia from China by all exporters except Huludao and Qingdao Xiangxing.

**PUBLIC FILE**

## 2. BACKGROUND

### 2.1. Initiation

On 12 August 2011, ATM lodged an application<sup>8</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 ACDI 2011/13, 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 cases

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

These have included:

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

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

### 2.3. Preliminary affirmative determination 177

The CEO may, at any time not earlier than 60 days after the date of initiation of an investigation, make a PAD in respect of goods the subject of an

---

<sup>8</sup> under s.269TB of the Act

application.

In order to make a PAD, the CEO must be satisfied that:

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

On 23 December 2011, after having regard to the application and submissions made to the investigation, the CEO was satisfied that there were sufficient grounds for the publication of a dumping duty notice in respect of HSS exported to Australia from China, Korea, Malaysia and Taiwan, and made a preliminary affirmative determination (PAD)<sup>9</sup> to that effect (PAD177).

No PAD was made in relation to goods exported from Thailand, or in relation to subsidies at that stage.

Following this PAD, Customs and Border Protection decided to require and take securities<sup>10</sup> in respect of any interim dumping duty that may become payable in respect of HSS from China, Korea, Malaysia and Taiwan that were entered into home consumption on or after 10 January 2012.

#### **2.4. Statement of essential facts 177**

On 23 April 2012, Customs and Border Protection placed SEF177 on the Public Record, on which the CEO proposed to base his recommendation to the Minister concerning the publication of a dumping duty notice and a countervailing duty notice in this investigation.

Interested parties were invited to lodge responses to SEF177 by no later than 14 May 2012. Non-confidential versions of all submissions received are available on the Public Record for this investigation.

The Public Record contains non-confidential submissions by interested parties, the non-confidential versions of Customs and Border Protection's visit reports and other publicly available documents.

The Public Record is available online at <http://adpr.customs.gov.au/Customs/>.

Documents on the Public Record should be read in conjunction with this report.

#### **2.5. Preliminary affirmative determination 177A**

On 5 June 2012, following the publication of SEF177, and consideration of submissions received in response to SEF177, the CEO was satisfied that

---

<sup>9</sup> S.269TD

<sup>10</sup> S.42

there were sufficient grounds for the publication of a countervailing duty notice in respect of HSS exported to Australia from China by all exporters except Huludao and Qingdao Xiangxing, and made a PAD to that effect (PAD177A).

Notification was made of this PAD in *The Australian* on 6 June 2012, and within ACDN 2012/27.

At the time of making PAD177A, having regard to the quantum of the dumping securities in place for goods entered for home consumption on or after 10 January 2012 (see above), the due date of its 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 to date.

However, if 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.

## 2.6. Termination 177

As discussed above, following publication of SEF177, and consideration of submissions received in response to SEF177, the CEO is satisfied that:

- Huludao, a Chinese exporter of HSS, had received financial contributions under countervailable subsidy programs that conferred benefits to the exported goods during the investigation period, but that the subsidy rate for this exporter, when measured as a percentage of the export price was negligible;
- Qingdao Xiangxing, a Chinese exporter of HSS, had not received financial contributions under countervailable subsidy programs that conferred benefits to the exported goods during the investigation period;
- HSS exported to Australia from Thailand by Saha Thai Steel Pipe Public Co., Ltd (Saha) and Pacific Pipe Public Co. Ltd (Pacific) was not dumped;
- the remaining volume of HSS exported to Australia from Thailand during the investigation period that was, or may be dumped, was negligible.

Under s.269TDA(2), if the CEO is satisfied that there has been no or negligible level of countervailable subsidy received by an exporter, the CEO must terminate the investigation so far as it relates to the exporter.

Under s.269TDA(1), if the CEO is satisfied that there has been no, or negligible dumping by an exporter during the investigation period, the CEO must terminate the investigation so far as it relates to that exporter.

Under s.269TDA(3), if the CEO is satisfied that the total volume of goods the subject of the application that have been exported to Australia from a

particular country of export have been, or may be, dumped is negligible, the CEO must terminate the investigation so far as it relates to that country.

Consequently, on 5 June 2012, the CEO terminated:

- the countervailing investigation so far as it related to Huludao and Qingdao Xiangxing;
- the dumping investigation so far as it related to Saha and Pacific; and
- the dumping investigation in relation to the goods exported from Thailand generally.

Reasons for these decisions are outlined in TER177, which is available on the Public Record. Consequently, this report has limited discussion of the investigation into the alleged dumping of HSS exported to Australia from Thailand.

Public notification of these terminations was made in *The Australian* on 6 June 2012, and in ACDN 2012/25 and ACDN 2012/26.

## 2.7. Report 177

Within 155 days after the initiation of an investigation, or such longer period as the Minister allows, the CEO must give the Minister a final report in respect of the goods the subject of the application (this report).

The Minister granted a 140 day extension to the date by which SEF177 had to be placed on the Public Record, and this subsequently extended the period of time for provision of this report to the Minister.

This report was provided to the Minister on 7 June 2012

### 2.7.1. Matters considered by the CEO in this report

In formulating this report to the Minister, the CEO must have regard to:

- the application concerned;
- any submissions concerning publication of the notice to which the Minister delegates, the CEO has had regard for the purpose of formulating SEF177;
- SEF177 itself;
- any submission in response to SEF177 received by Customs and Border Protection within 20 days after the day that statement was placed on the Public Record; and
- any other matters considered relevant.<sup>11</sup>

---

<sup>11</sup> Subsection 269TEA(3)

The following submissions were received in response to SEF177:

Submitted by	Submission title/description	Date received
Alpine Pipe Manufacturing Sdn Bhd	SEF No. 177	27 April 2012
Saha Thai Steel Pipe Public Co., Ltd	SEF No. 177	27 April 2012
Dalian Steelforce Hi-Tech Co., Ltd	Correction of methodological and technical errors in spreadsheets	1 May 2012
Hengshui Jinghua Steel Pipe Co., Ltd	Dumping Margin and Subsidy Margin for Hengshui Jinghua Steel Pipe Co., Ltd. In Statement of Essential Facts No. 177	7 May 2012
OneSteel Australian Tube Mills Pty Ltd	Market Situation for HSS in Thailand	7 May 2012
Sanwa Pty Ltd	HSS (Pipe & Tube) Anti-dumping Action	10 May 2012
Pacific Pipe Public Company Ltd	Statement of Essential Facts No. 177	11 May 2012
Jiedong Economic Development Testing Zone Tai Feng Qiao Metal Products Co., Ltd	Comments regarding SEF of dumping and subsidization investigation of HSS originating from People's Republic of China dated April 23, 2012 by Jiedong Economic Development Testing Zone Tai Feng Qiao Metal Products Co., Ltd.	11 May 2012
Alpine Pipe Manufacturing Sdn Bhd	SEF No 177	12 May 2012
Samchai Steel Industries Public Company Ltd	Samchai Steel Industries Public Company Ltd - Thailand	13 May 2012
Howard Consulting Pty Ltd	SEF No 177 - Meeting	14 May 2012
Zhejiang Kingland Pipeline and Technologies Co., Ltd	SEF Response - Kingland	14 May 2012
Huludao City Steel Pipe Industrial Co., Ltd	SEF Response by Huludao	14 May 2012
Shin Yang Steel Corporation and Yieh Phui Enterprise Co., Ltd.	SEF No 177	14 May 2012
OneSteel Australian Tube Mills Pty Ltd	OneSteel ATM Response to Statement of Essential Facts	14 May 2012
Senior Steel	ACDN - Submission to anti-dumping enquiry	14 May 2012
Southern Steel Pipe Malaysia	SEF No. 177	14 May 2012
Jingdao Jiangxin Iron and Steel Corporation Pty Ltd	POST SEF No 177	14 May 2012
Australian Steel Association Inc.	Submission in Response to Statement of Essential Facts No. 177	14 May 2012
Dalian Steelforce Hi-Tech Co., Ltd	Statement of Essential Facts - Response	14 May 2012
Government of Thailand	Meeting with Australian Customs - Monday, 14 May 2012	14 May 2012
Steelforce Group	Response from GOT	15 May 2012
Government of China	Comments concerning SEF 177	15 May 2012
OneSteel Australian Tube Mills Pty Ltd	Submission in response to Statement of Essential Facts No. 177	16 May 2012
Government of China	Market Situation for HSS in Thailand	22 May 2012
OneSteel Australian Tube Mills Pty Ltd	Alleged information deficiencies - Statement of Essential Facts 177	23 May 2012
OneSteel Australian Tube Mills Pty Ltd	Like Goods	23 May 2012



Submitted by	Submission title/description	Date received
OneSteel Australian Tube Mills Pty Ltd	Further comment re USP	23 May 2012
OneSteel Australian Tube Mills Pty Ltd	HSS exported from Thailand	24 May 2012
Steelforce Australia Limited	Non-confidential version of certain emails between Steelforce and Customs and Border Protection for electronic public record	24 May 2012
OneSteel Australian Tube Mills Pty Ltd	Submissions from interested parties re SEF No. 177	31 May 2012
Alpine Pipe Manufacturing Sdn Bhd	Investigation No 177 Alpine – Malaysia	6 June 2012
Australian Steel Association Inc.	ASA Response to Onesteel ATM Submissions of 23 <sup>rd</sup> May	6 June 2012

The due date for submissions in response to SEF177<sup>12</sup> was 14 May 2012.

In accordance with s.269TEA(3), the CEO is not obliged to have regard to submissions received after 14 May 2012 if to do so would, in the CEO's opinion, delay the timely preparation of this report to the Minister. Consequently, the CEO has had no regard to submissions received on or after 5 June 2012.

In addition, following the publication of SEF177, Customs and Border Protection held meetings with:

- ATM;
- the Steelforce Group; and
- the Australian Steel Association (ASA).

Records of these meetings are available on the Public Record.

## 2.8. Public Interest Submissions

Customs and Border Protection has undertaken to highlight in this final report to the Minister, any submissions lodged during the investigation that raise matters relevant to the consideration of public interest in the decision whether or not to impose anti-dumping and countervailing measures.

The following interested parties lodged submissions that contained points relevant to considerations of the public interest in imposing anti-dumping and countervailing measures:

- Adsteel Brokers Pty Ltd;
- Amity Pacific Pty Ltd;
- Australian Steel Association Inc.;
- Dalian Steelforce Hi Tech Co;
- Digga Australia Pty Ltd;
- Howard Consulting Pty Ltd;

<sup>12</sup> 20 days after the placement of SEF177 on the Public Record

- Palmer Steel Trading (Aust) Pty Ltd;
- ProWay Livestock Equipment;
- Sanwa Pty Ltd;
- Senior Steel;
- Steel Supplies;
- Southern Cross Steel Pty Ltd;
- Super Steel Australia Pty Ltd;
- Townsville Steel & Wire; and
- Waratah Steel Supplies Pty Ltd.

These interested parties included HSS stockists and distributors, fabricators using HSS as an input to production ('end users'), and HSS importers.

The submissions generally claimed that imposition of dumping duties would:

- give ATM an unfair competitive advantage, and/or
- disadvantage end users of HSS, particularly those competing against imports of fabricated products that contain HSS (not subject to this investigation).

An outline of points contained in these submissions is included below.

#### **2.8.1. Reduced/unfair competition in the Australian HSS market**

Several interested parties lodged submissions claiming that measures that exclude ATM's import supply source from Vietnam would be anti-competitive and would give ATM an unfair advantage over other HDG pipe importers.

Various submissions also claimed that imposition of measures would lead to greatly reduced competition in the Australian HSS market, which would be costly to the construction industry.

Additionally, it was claimed that ATM's repeated anti-dumping applications are disrupting numerous Australian businesses (particularly small and medium enterprises) as they cannot buy HSS with certainty whilst investigations are underway.

#### **2.8.2. Disadvantaged end-users**

Various submissions claimed that Australian fabricators of various products that include HSS as a component compete with increasing volumes of imported fabricated products, and that the imposition of dumping duties and resultant price increase of HSS would severely impact ability of these fabricators to compete with these imports.

Additionally, submissions from several fabricators claimed that imposition of duties would force them to move their manufacturing activities offshore, leading to job losses in the manufacturing sector, while several submissions from fabricators and HSS stockists claimed that imposition of duties would lead to many small businesses closing.

### 3. THE GOODS AND LIKE GOODS

#### 3.1. Findings

Customs and Border Protection has found that the Australian industry produces HSS that has characteristics closely resembling those of HSS manufactured in China, Korea, Malaysia, Taiwan and Thailand and exported to Australia, and has therefore made a finding that HSS manufactured by the Australian industry are like goods.<sup>13</sup>

#### 3.2. 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 4.6mm 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).

<sup>13</sup> In terms of s.269T