



**Australian Government**  
**Department of Industry, Science,  
Energy and Resources**

**Anti-Dumping  
Commission**

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***CUSTOMS ACT 1901 - PART XVB***

**CONSIDERATION REPORT  
NO. 567**

**CONSIDERATION OF AN APPLICATION FOR  
A REVOCATION REVIEW IN RELATION TO  
THE ANTI-DUMPING MEASURES APPLYING TO  
HOLLOW STRUCTURAL SECTIONS  
EXPORTED TO AUSTRALIA FROM  
THE REPUBLIC OF KOREA BY HISTEEL CO., LTD.**

**22 September 2020**

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## PUBLIC RECORD

### ABBREVIATIONS

Abbreviation	Full title
ABF	Australian Border Force
the Act	the <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
AS	Australian Standard
China	the People's Republic of China
CHS	circular hollow sections
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
EPR	electronic public record
HiSteel	HiSteel Co., Ltd.
HSS, or the goods	hollow structural sections
IDD	interim dumping duty
Korea	the Republic of Korea
mm	millimetres
RHS	rectangular or square hollow sections

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Background

This report provides the results of the consideration by the Anti-Dumping Commission (the Commission) of an application lodged by HiSteel Co. Ltd (HiSteel). HiSteel requests that the anti-dumping measures (in the form of a dumping duty notice) which apply to its exports of certain hollow structural sections (HSS, or the goods) exported to Australia from the Republic of Korea (Korea) be revoked, on the basis that the anti-dumping measures are no longer warranted.<sup>1</sup>

## 1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)<sup>2</sup> sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in assessing applications for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject such applications. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

## 1.3 Findings and conclusions

The Commission has examined HiSteel's application and is satisfied that:

- the application complies with sections 269ZA(1), 269ZA(2), 269ZB(1) and 269ZB(2); and
- there appears to be reasonable grounds for asserting that the anti-dumping measures are no longer warranted as they apply to HiSteel.

## 1.4 Recommendation

The Commission recommends that the Commissioner:

- not reject the application for a review seeking the revocation of the anti-dumping measures applying to the goods exported from Korea by HiSteel;
- ascertain variable factors for the period 1 October 2019 to 30 September 2020 for the purposes of establishing whether the anti-dumping measures are no longer warranted; and
- publish a notice that the Commission will conduct a review in relation to whether the anti-dumping measures are no longer warranted.

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<sup>1</sup> Section 269ZA(1)(b)(ii).

<sup>2</sup> All legislative references are to the *Customs Act 1901*, unless otherwise stated.

## 2 BACKGROUND

### 2.1 Application

On 2 September 2020, HiSteel lodged an application requesting a review of anti-dumping measures. HiSteel claims that the anti-dumping measures, as they apply to HiSteel, are no longer warranted.

A non-confidential version of HiSteel's application will be available on the public record on the Commission website upon initiation of the review. A confidential version of the application is available at **Confidential Attachment 1**.

Pursuant to section 269ZC(1), the Commissioner must examine the application and, within 20 days, decide whether to reject it. As such, the decision to reject the application must be made no later than **22 September 2020**. If the Commissioner is not satisfied, having regard to the application and to any other information that he considers relevant, of one or more of the matters referred to in section 269ZC(2), the Commissioner must reject the application.

### 2.2 Current anti-dumping measures applying to HiSteel

Anti-dumping measures in the form of a dumping duty notice were initially imposed on exports of HSS from the People's Republic of China (China), Korea, Malaysia and Taiwan on 3 July 2012 by the relevant Minister after consideration of *International Trade Remedies Branch Report No. 177*.<sup>3</sup> The dumping duty notice applies to all exporters of HSS.

The measures applying to exports of HSS from China, Korea, Malaysia and Taiwan were last examined by the Commission in *Anti-Dumping Commission Report No. 419*, which resulted in an alteration of the variable factors applying to the affected exporters on 6 June 2018.<sup>4</sup> The Commission is currently conducting a review of these measures (along with a countervailing duty notice applying to HSS exported from China by certain exporters, and a dumping duty notice applying to HSS from the Kingdom of Thailand), but has yet to publish a statement of essential facts.<sup>5</sup>

The measures applying to HiSteel were previously the subject of a continuation inquiry (reported in *Anti-Dumping Commission Report No. 379*) that resulted in the measures being continued for a further five years.<sup>6</sup> Unless further continued, the measures will expire on 2 July 2022.

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<sup>3</sup> The [report](#) is available on the Commission website.

<sup>4</sup> The [report](#) and the [notice](#) of the relevant Minister's decision (Anti-Dumping Notice (ADN) No. 2018/74) are available on the Commission website.

<sup>5</sup> The relevant case is no. 529, with the electronic public record (EPR) available on the Commission website. The measures applying to HSS from the Kingdom of Thailand expired on 19 August 2020; *Anti-Dumping Commission Report No. 532* refers.

<sup>6</sup> The Commissioner's [report](#) and the [notice](#) of the relevant Minister's decision (ADN No. 2017/70) were published on 26 June 2017.

### 2.2.1 Summary of measures

The following table summarises the dumping margins last ascertained by the Commission and the forms of measures applying to exporters of HSS from Korea.

Exporter	Dumping margin	Form of dumping measures <sup>7</sup>
Kukje Steel Co., Ltd	-1.9%	floor price
Uncooperative and all other exporters	-1.9%	floor price

**Table 1: Current measures applying to HSS exported from Korea**

### 2.3 The goods subject to the anti-dumping measures

The goods subject to the anti-dumping measures 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 inline galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21 millimetres (mm) up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3 mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6 mm and air heater tubes to Australian Standard (AS) 2556.<sup>8</sup>

The following categories of HSS are excluded from the goods:

- 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 1.6 mm; and
- air heater tubes to AS 2556.

The applicant at the time of the original investigation supplied additional information to clarify the scope of the goods description, indicating that all HSS regardless of finish is included. Finish types for the goods include in-line galvanised, pre-galvanised, hot-dipped galvanised and non-galvanised HSS. Non-galvanised HSS is typically of painted, black, lacquered or oiled finish coatings. CHS with other than plain ends (such as threaded, swaged and shouldered) are also included.

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 being 250 and 350 mega Pascals (MPa). HSS may also be referred to as extra-light, light, medium heavy, or extra heavy according to its wall thickness.

<sup>7</sup> The forms of measures are established under sections 8(5) and 10(3B) of the *Customs Tariff (Anti-Dumping) Act 1975* and section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>8</sup> As set out in [Consideration Report No. 177](#) and [Anti-Dumping Commission Report No. 177](#).

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The goods include all electric resistance welded pipe and tube made of 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.

### 2.3.1 Exclusions from the measures

The Commission notes that, as a result of *Ministerial Exemption Instrument No 1* of 2016,<sup>9</sup> certain HSS is exempt from the anti-dumping measures due to a Tariff Concession Order<sup>10</sup> granted in respect of:

Tubes, square or rectangular, electric resistance welded, complying with Australian / New Zealand Standard 1163:2009, Grade C350L0 or C450L0, with a perimeter not less than 1050 mm and having either:

- a) silicon content plus 2.5 times the phosphorus content NOT greater than 0.09%;
- b) silicon content greater than 0.14% and NOT greater than 0.24%.

### 2.3.2 Tariff classification

The goods exported by HiSteel are generally classified in Schedule 3 to the *Customs Tariff Act 1995* as follows:

Tariff Subheading	Statistical Code	Description
7306		OTHER TUBES, PIPES AND HOLLOW PROFILES (FOR EXAMPLE, OPEN SEAM OR WELDED, RIVETED OR SIMILARLY CLOSED), OF IRON OR STEEL:
7306.30		Other, welded, of circular cross-section, of iron or non-alloy steel:
7306.30.00		<i>Exceeding 21 mm but not exceeding 60.3 mm external diameter:</i>
	31	Wall thickness not exceeding 2.5 mm
	32	Wall thickness exceeding 2.5 mm but not exceeding 3.6 mm
	33	Wall thickness exceeding 3.6 mm
		<i>Exceeding 60.3 mm but not exceeding 114.3 mm external diameter:</i>
	34	Wall thickness not exceeding 3.2 mm
	35	Wall thickness exceeding 3.2 mm but not exceeding 4.5 mm
	36	Wall thickness exceeding 4.5 mm
	37	Exceeding 114.3 mm but not exceeding 165.1 mm external diameter
7306.6		Other, welded, of non-circular cross-section
7306.61.00		<i>Of square or rectangular cross-section, of iron or non-alloy steel, not exceeding 279.4 mm perimeter:</i>
	21	Wall thickness not exceeding 2 mm
	22	Wall thickness exceeding 2 mm
	25	Exceeding 279.4 mm perimeter
7306.69.00	10	Of other non-circular cross-section
7306.90.00	12	Other

**Table 2: General tariff classification for the goods**

<sup>9</sup> [ADN No. 2016/116](#) refers, following exemption inquiry EX0044.

<sup>10</sup> Available on the Australian Border Force [website](#).

## 3 CONSIDERATION OF THE APPLICATION

### 3.1 Legislative background

Pursuant to section 269ZA, where anti-dumping measures have been taken in respect of goods, an affected party<sup>11</sup> may, by application lodged with the Commissioner, request that the Commissioner initiate a review of measures.

Section 269ZA(2) states, inter alia, that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of a notice declaring the outcome of the last review of the anti-dumping notice.

The application can be made by the affected party who considers that it may be appropriate to review those measures as they affect a particular exporter of those goods, or as they affect exporters of those goods generally, on the grounds that the anti-dumping measures are no longer warranted.

Section 269ZB(1) requires that an application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS. Without otherwise limiting the matters that can be required by the form, section 269ZB(2) provides that an application must include:

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
  - the variable factors relevant to the taking of the anti-dumping measures that have changed; and
  - the amount by which each such factor has changed; and
  - the information that establishes that amount.
- if the application is based on circumstances that, in the applicant's view, indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the approved form) of the circumstances.

Section 269ZC(2) specifies the matters which must be considered in making a decision whether to reject an application. These matters are:

- whether the application complies with section 269ZB; and
- whether there appears to be reasonable grounds for asserting either, or both, of the following:
  - that the variable factors relevant to the taking of anti-dumping measures have changed;

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<sup>11</sup> An "affected party", in relation to an application under Division 5 for review of anti-dumping measures imposed on particular goods, is defined under section 269T as:

- a) a person who is directly concerned with the exportation to Australia of the goods to which the measures relate or who has been directly concerned with the exportation to Australia of like goods; or
- b) a person who is directly concerned with the importation into Australia of the goods to which the measures relate or who has been directly concerned with the importation into Australia of like goods; or
- c) a person representing, or representing a portion of, the Australian industry producing like goods; or
- d) the Government of a country from which like goods have been exported to Australia.



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- that the anti-dumping measures are no longer warranted.

### 3.2 Compliance with sections 269ZA and 269ZB

When considering the requirements of sections 269ZA(1), 269ZA(2), 269ZB(1) and 269ZB(2), the Commission notes that the application:

- was submitted by an entity which is an affected party, as HiSteel is a producer of like goods and a party directly concerned with the exportation of the goods;
- was lodged more than 12 months after the publication of a dumping duty notice or the publication of a notice declaring the outcome of the last review of the notice;<sup>12</sup>
- is in writing;
- is in the approved form (*Form B602 – Application for a review of measures*) and contains such information as the form requires. This includes evidence in support of the view that there appear to be reasonable grounds for asserting that the measures are no longer warranted;
- is signed in the manner required by the form;
- was lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provides a description of the kind of goods to which the anti-dumping measures the subject of the application relates;
- provides a description of the anti-dumping measures the subject of the application; and
- includes a statement of the opinion of the applicant concerning the circumstances that, in the applicant's view, indicate that the anti-dumping measures are no longer warranted.

The Commission therefore considers that HiSteel's application has satisfied the requirements of sections 269ZA(1), 269ZA(2), 269ZB(1) and 269ZB(2).

### 3.3 Compliance with section 269ZC – appearance of reasonable grounds

When considering the requirements of section 269ZC, the Commission has considered the claims and evidence outlined by HiSteel in its application. The Commission has also analysed other information as required to assess these claims, including data provided in previous inquiries relating to HSS, and data sourced from third parties, including the Australian Border Force (ABF) import database. HiSteel's claims and the Commission's interpretation and findings with respect to them, are outlined below. The Commission's detailed analysis can be found at **Confidential Attachment 2**.

HiSteel has claimed that it is not currently dumping. To support this view, HiSteel has cited the verification report published for case 529 (an ongoing variable factors review) where a preliminary dumping margin of negative 6.2 per cent has been calculated for the period 1 October 2018 to 30 September 2019.<sup>13</sup> That period covers a significant portion of HiSteel's export history to Australia, and is derived from relatively contemporary data (within two years of this consideration report).

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<sup>12</sup> The most recent dumping duty notice declaring the outcome for a review of HSS exported from Korea was published on 31 May 2018.

<sup>13</sup> EPR 529, document no. 35 refers.

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HiSteel asserts that it has not historically exported the goods to Australia, and that its exports have not been at dumped prices. The Commission notes that the ABF import database indicates that HiSteel had not previously exported HSS in significant volume prior to 2017. The Commission understands that HiSteel did not participate in the original case, nor the subsequent continuation or reviews prior to case 529, and therefore the Commission cannot assess whether previous exports have been at dumped prices.

HiSteel further commented on the impact that the form of measures have had on its pricing behaviour. HiSteel claims that during the review period for case 529, it exported at prices higher than the floor price measure to which it is subject. The Commission's analysis of verified data provided in case 529 indicates that this is broadly correct. The Commission also analysed HiSteel's prices in the ABF import database in other periods and observed that HiSteel's prices exceed the floor price established for Korean exporters.

Several claims relating to sales volumes have also been made by HiSteel. HiSteel claims that since it largely began exporting to Australia in 2017, its sales (in terms of both volume and distribution links) have remained stable. Further, HiSteel claims that the imposition of trade measures against HSS exported from Korea by other jurisdictions (particularly the United States of America) has not had a significant impact on its exports to the Australian market. The Commission considers that these claims appear to be supported by data obtained from case 529 and the ABF import database.

HiSteel claims that it has maintained high capacity utilisation, and has found alternative export markets in the Americas. HiSteel also asserts that in the period examined in case 529 (1 October 2018 to 30 September 2019) it only exported a single model of the goods to Australia.<sup>14</sup> HiSteel claims that this single model will enable it to easily review prices, such that it will not export at dumped prices in the future. The Commission considers that these claims ought to be examined further in the course of any review process.

Based on the Commission's analysis, there appear to be reasonable grounds in respect of the application for asserting, under section 269ZC(2)(b)(ii), that the anti-dumping measures are no longer warranted. Therefore, the Commission recommends that the Commissioner not reject the application pursuant to section 269ZC(1).

### 3.4 Conclusions and recommendations

The Commission has considered HiSteel's application in accordance with sections 269ZA, 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the application and other relevant information referred to in this report, that:

- HiSteel is an affected party in accordance with section 269ZA;
- HiSteel has submitted an application that complies with section 269ZB; and
- there appears to be reasonable grounds for asserting that the anti-dumping measures are no longer warranted as they apply to HiSteel in accordance with section 269ZC.

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<sup>14</sup> P-N-O-R-350-P, as shown in its verification report on the electronic public record for case 529 (document no. 45 refers).

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The Commission thus recommends that the Commissioner:

- not reject the application for a review seeking the revocation of the anti-dumping measures applying to the goods exported from Korea by HiSteel;
- ascertain variable factors for the period of 1 October 2019 to 30 September 2020 for the purposes of establishing whether the anti-dumping measures are no longer warranted; and
- publish a notice that the Commission will conduct a review in relation to whether the anti-dumping measures are no longer warranted.

**4 ATTACHMENTS**

<b>Confidential Attachment 1</b>	Confidential Application
<b>Confidential Attachment 2</b>	Consideration Analysis