



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

Exemption Inquiry Report: EX0077

Hot Rolled Structural Steel Sections

**Exported to Australia from Japan,
the Republic of Korea, Taiwan and
the Kingdom of Thailand.**

Applicant:
OneSteel Manufacturing Pty Ltd

November 2019

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Abbreviations

Abbreviation	Full referenc
ADN	Anti-Dumping Notice
Commission	the Anti-Dumping Commission
Commissioner	the Commissioner of the Anti-Dumping Commission
Customs Act	<i>Customs Act 1901</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
The duties	interim dumping duty and dumping duty
Exemption goods	The goods subject of the application as described in section 3.3
HRS	hot rolled structural steel sections
Investigation 223	the original investigation that led to the duties
Korea	the Republic of Korea
OneSteel	OneSteel Manufacturing Pty Ltd
Minister	the Minister for Industry, Science and Technology
REP 223	<i>Anti-Dumping Commission Report No. 223</i>
Tariff Act	<i>Customs Tariff Act 1995</i>
TCO	Tariff Concession Order
Thailand	the Kingdom of Thailand

1. Summary and recommendations

This report sets out the findings of the Anti-Dumping Commission (the Commission) in response to an application by Onesteel Manufacturing Pty Ltd (OneSteel) requesting an exemption from interim dumping duty and dumping duty (the duties) under subsection 8(7)(b) of the *Customs Tariff (Anti-Dumping) Act 1975*¹ (Dumping Duty Act) in relation to the export of certain hot rolled structural steel sections (HRS) to Australia from Japan, the Republic of Korea (Korea), Taiwan and the Kingdom of Thailand (Thailand).

This report sets out the Commission's findings upon which the Commissioner of the Anti-Dumping Commission (the Commissioner) relied to make a recommendation to the Minister for Industry, Science and Technology (the Minister)² on whether or not to exempt goods from the duties.

1.1 Application of law to facts

1.1.1 Authority to make the decision

Subsection 8(7) of the Dumping Duty Act set out, amongst other things, the matters to be considered by the Minister in deciding whether to exercise their discretion to exempt goods from the duties.

1.1.2 Initiation of inquiry

After examining the application, the Commission initiated an inquiry on 19 July 2019. Details of the initiation are contained in Anti-Dumping Notice (ADN) No. 2018/94.³

1.2 Findings and conclusions

The Commission has found that a Tariff Concession Order (TCO) under Part XVA of the *Customs Act 1901* (Customs Act) is in force in respect of the goods subject to the inquiry (referred to as the 'exemption goods' in this report).

The Commission therefore considers the conditions of subsection 8(7)(b) of the Dumping Duty Act for granting an exemption are satisfied.

1.3 Recommendation

The Commissioner recommends to the Minister that the Minister exempt the exemption goods from the duties pursuant to subsection 8(7) of the Dumping Duty Act.

The Commissioner also recommends the Minister exempt the exemption goods, from the date of the application, that is, on and from 4 July 2019, until the relevant TCO is revoked.

¹ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Tariff (Anti-Dumping) Act 1975* unless otherwise specified.

² For the purposes of this inquiry, the Minister is the relevant decision maker.

³ Available on the Commission's website at www.adcommission.gov.au

2. Background

2.1 Original investigation

On 20 November 2014, the Commission completed an investigation into the alleged dumping of certain HRS exported to Australia from Japan, Korea, Taiwan and Thailand (Investigation 223).

The then Parliamentary Secretary to the Minister for Industry accepted the Commissioner's recommendations and found that HRS from Japan, Korea, Taiwan and Thailand had been dumped and that the dumping had caused material injury to the Australian industry. A dumping duty notice was published on 20 November 2014. The reasons for the then Parliamentary Secretary's decision in this case are contained in *Anti-Dumping Commission Report No. 223* (REP 223).

ADN No. 2014/127 contains details of the measures, including a description of the goods subject to measures.

2.2 Exemption application

On 4 July 2019, OneSteel wrote to the Commission requesting an exemption from the duties in relation to its imports of certain HRS.⁴

OneSteel requested that the Minister exercise her discretion to exempt the exemption goods from the duties on the basis that a TCO under Part XVA of the Customs Act in respect of the exemption goods is in force. In its application, OneSteel submitted that TCO number TC 19104997,⁵ which is currently in force covering the exemption goods, provides grounds for the Minister to grant an exemption from the duties.

2.3 Exemption inquiry

The Commission accepted OneSteel's letter as an application for an exemption of the duties. On 19 July 2019, the Commissioner initiated an exemption inquiry, by publishing ADN No. 2019/94 which advised that an exemption inquiry had been initiated, provided details of the goods subject to the inquiry, and outlined the procedures to be followed during the inquiry.

The Commission found in Investigation 223 that OneSteel was the only Australian manufacturer of like goods to the goods subject to the duties.⁶ Following OneSteel's exemption application a search of ACRS (Australian Certification Authority for Reinforcing Steel) records was conducted. This search found that OneSteel is the only Australian manufacturer certified to produce those types of HRS to the Australian-New Zealand Standard.⁷ Hence the Commission did not invite any interested parties to respond to OneSteel's application by completing a 'Response to Exemption Application' questionnaire.

2.4 Legislative requirements for an exemption

OneSteel has applied for an exemption under subsection 8(7)(b) of the Dumping Duty Act.

⁴ Electronic public record item no. 1 for EX0077, available at www.adcommission.gov.au

⁵ 'TC' in the TCO number stands for Tariff Concession.

⁶ REP 223 at 4.5, p.22

⁷ Refer https://www.steelcertification.com/structural_hot_rolled_sections.html

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Subsection 8(7) provides:

- (7) The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:

...

- (b) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force;

...

In determining whether a TCO in respect of the exemption goods is in force, regard is had initially to whether the exemption goods are correctly classified to the tariff heading to which the TCO is linked. Close scrutiny will then be made of the terms of the TCO to ensure that the exemption goods meet each of those terms. If the exemption goods do more than what is described in the TCO, but otherwise meet its terms and are classified correctly to the tariff heading to which the TCO is linked, legal authority supports the eligibility of those particular goods for that TCO.⁸

⁸ *Robert Bosch Australia Pty Ltd v Collector of Customs*, AAT, 29 August 1986; *Re Klockner Moeller Pty Ltd v Collector of Customs*, AAT, 18 January 1989.

3. The “goods subject to measures” and the “goods subject of the application for exemption”

3.1 The goods subject to measures

The goods exported from Japan, Korea, Taiwan and Thailand, covered by the current dumping duty notice are:

Hot rolled structural steel sections in the following shapes and sizes, whether or not containing alloys:

- *universal beams (I sections), of a height greater than 130mm and less than 650mm;*
- *universal columns and universal bearing piles (H sections), of a height greater than 130mm and less than 650mm;*
- *channels (U sections and C sections) of a height greater than 130mm and less than 400mm; and*
- *equal and unequal angles (L sections), with a combined leg length of greater than 200mm.*

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

The following goods were excluded from the investigation:

- *hot rolled ‘T’ shaped sections, sheet pile sections and hot rolled merchant bar shaped sections, such as rounds, squares, flats, hexagons, sleepers and rails; and*
- *sections manufactured from welded plate (e.g. welded beams and welded columns).*

3.2 Tariff classification

The goods subject to measures may be classified under the following subheadings in Schedule 3 of the *Customs Tariff Act 1995* (Tariff Act):

- 7216.31.00 statistical code 30 (channels – U and C sections);
- 7216.32.00 statistical code 31 (universal beams – I sections);
- 7216.33.00 statistical code 32 (universal column & universal bearing piles – H sections); and
- 7216.40.00 statistical code 33 (equal and unequal angles – L sections).

3.3 Goods subject to the application for exemption

The goods subject to the application for exemption (the exemption goods) are specified in TCO number TC 19104997, being:

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

(a) leg size 150 mm x 90 mm having ANY of the following:

(i) thickness being 8 mm OR 10 mm OR 12 mm;

(ii) lengths of 9 m OR 10.5 m OR 12 m,

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(b) leg size 150 mm x 100 mm having ANY of the following:

(i) thickness being 10 mm OR 12 mm;

(ii) lengths of 9 m OR 10.5 m OR 12 m

The exemption goods are classified to tariff subheading 7216.40.00 of Schedule 3 to the Tariff Act.

4. Goods subject to Tariff Concession Order (TCO)

4.1 Assessment

The Commission has found that on 15 May 2019, the decision to grant TCO number TC 19104997 was published in the *Commonwealth of Australia Tariff Concessions Gazette*.⁹ TC 19104997 has been operative from 22 February 2019 and corresponds to tariff classification 7216.40.00. The exemption goods as described in section 3.3 are covered by the TC 19104997 and have the exact same specifications as TC 19104997.

Accordingly, the Commissioner considers that the condition set out in subsection 8(7)(b) of the Dumping Duty Act for the Minister to grant an exemption is satisfied.

4.2 Conclusion

The Commission recommends that the Minister exempt the exemption goods from the duties, under subsection 8(7)(b) of the Dumping Duty Act, on the basis that a TCO in respect of the goods is in force.

4.3 Effective date of exemption

OneSteel's application for exemption, examined in this report, was made on 4 July 2019.

The timing in relation to the granting of an exemption is at the discretion of the Minister. Subsection 8(8A) of the Dumping Duty Act provides that if an exemption is given because of an application for exemption, then the date of effect must not be earlier than the day the application is made.

The Commission recommends that the exemption, if granted, have effect from the date of the application, that is, on and from 4 July 2019, on the basis that the relevant TCO was in force on this date, until that TCO is revoked.

⁹ Available on the Australian Border Force website at <https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/tariff-concession-order/gazette>