



ANTI-DUMPING NOTICE NO. 2019/21

Customs Act 1901 – Part XVB

CERTAIN HOT ROLLED STRUCTURAL STEEL SECTIONS

exported to Australia from

Japan, the Republic of Korea, Taiwan (except for exports by Feng Hsin Steel Co Ltd) and the Kingdom of Thailand

Initiation of Continuation Inquiry No. 505 into Anti-Dumping Measures

Notice under subsection 269ZHD(4) of the Customs Act 1901

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice, that apply to exports of hot rolled structural steel sections (HRS or the 'goods') from Japan, the Republic of Korea (Korea), Taiwan (except for exports by Feng Hsin Steel Co Ltd) and the Kingdom of Thailand (Thailand) to Australia is justified.

The anti-dumping measures are due to expire on 20 November 2019 (the specified expiry day).¹

1. The goods

The goods to which the current anti-dumping measures apply 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*

¹ On and from 21 November 2019, i.e. the day after the specified expiry day, if not continued, the anti-dumping measures would no longer apply.

- *equal and unequal angles (L sections), with a combined leg length of greater than 200mm.*

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

2. Excluded goods

The measures do not apply to the following goods:

- *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. Tariff classification

Goods identified as hot rolled non-alloy steel sections, as per the shapes and sizes described above, are classified to the following tariff subheadings in schedule 3 to the *Customs Tariff Act 1995*:²

- 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 and universal bearing piles — *H* sections); and
- 7216.40.00 statistical code 33 (equal and unequal angles — *L* sections).

Goods identified as hot rolled alloy steel sections, as per the shapes and sizes described above, are classified to tariff subheading 7228.70.00 (statistical codes 11 and 12) in schedule 3 of the *Customs Tariff Act 1995*.

4. Background to the anti-dumping measures

The anti-dumping measures were initially announced in Anti-Dumping Notice (ADN) No. 2014/127 on 20 November 2014 by the then Parliamentary Secretary to the Minister for Industry, Innovation and Science (the then Parliamentary Secretary) following consideration of *Anti-Dumping Commission Report No. 223*.

On 7 August 2015, following a review by the Anti-Dumping Review Panel of the decision to impose the anti-dumping measures, the dumping duty notice was altered.

² These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

The dumping duty notice was subsequently altered as the result of recommendations made in:

- Review 345 - exports of the goods from Taiwan by Tung Ho Steel;
- Review 346 - exports of the goods from Thailand by Siam Yamato Steel Co Ltd;
- Accelerated review 359 - exports of the goods from Taiwan by Dragon Steel Corporation; and
- Review 465 - exports of the goods from Korea by all exporters.

On 3 January 2019, I initiated a review (Review 499) of the anti-dumping measures applying to HRS exported from Japan, Korea, Taiwan and Thailand.³

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901*⁴ by OneSteel Manufacturing Pty Ltd representing the Australian industry producing like goods.

Further details on the goods and existing measures are available on the Dumping Commodity Register on the Anti-Dumping Commission's (Commission) website (www.adcommission.gov.au).

5. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with subsection 269ZHB(1), I published a notice⁵ on the Commission's website on 23 November 2018. The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (subsection 269ZHB(1)(b)(i)); or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (subsection 269ZHB(1)(b)(ii)).

On 21 January 2019, an application for the continuation of the anti-dumping measures was received from OneSteel Manufacturing Pty Ltd trading as Liberty Steel (Liberty Steel). A non-confidential version of the application is available on the Commission's public record.

Having regard to the application, the original investigation and other reviews that have been conducted by the Commission, I am satisfied that Liberty Steel is the person under subsection 269ZHB(1)(b)(i) because Liberty Steel's original application under section 269TB resulted in the existing anti-dumping measures.

³ ADN No. 2019/02 refers.

⁴ All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

⁵ ADN No. 2018/173 refers.

Like goods is defined under subsection 269T(1). Subsections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry. Having regard to the application, the original investigation and other reviews that have been conducted by the Commission, I am satisfied that Liberty Steel produces like goods to the goods under consideration and that it represents the Australian industry.

6. Consideration of application under subsection 269ZHD(1)

Pursuant to subsection 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in subsection 269ZHD(2). These are:

- the application complies with section 269ZHC (subsection 269ZHD(2)(a)); and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (subsection 269ZHD(2)(b)).

7. Assessment under subsection 269ZHD(2)(a) - compliance with section 269ZHC

I consider that the application complies with the requirements of section 269ZHC because it is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS, being by email to the Commission's email address provided in the instrument under section 269SMS.⁶

8. Assessment under subsection 269ZHD(2)(b) – appear to be reasonable grounds

Applicant's claims

In its application, Liberty Steel claims, among other things, that:

- If the measures expire, exports from Japan, Korea, Taiwan and Thailand at dumped prices will continue or recur and will cause it to experience material injury in the forms of reduced:
 - prices;
 - profitability;
 - profits;
 - sales volumes;
 - market share;
 - sales revenue; and

⁶ A copy of the instrument can be found on the Commission's website at www.adcommission.gov.au.

- capacity utilisation.
- Exporters from Japan, Korea, Taiwan and Thailand have maintained their distribution channels to Australia and have continued to export the goods under consideration to Australia.
- Steel exporters are affected by global overcapacity and trade distortions from several steel trade defence actions abroad.
- Liberty Steel's domestic prices are directly influenced by the price of imported goods. Applications for reviews and accelerated reviews by exporters in respect of the goods under consideration indicate their intent to continue to export the goods to Australia.

As part of its application, Liberty Steel provided export data for the goods to demonstrate that Japan, Korea, Taiwan and Thailand continue to export the goods to Australia. The Commission also considered information it obtained from the Australian Border Force (ABF) import database.

9. The Commission's consideration

The Commission has examined information it obtained from the ABF import database and has found that exporters from the subject countries have continued to export the goods to Australia since the imposition of the anti-dumping measures. This indicates that manufacturers in Japan, Korea, Taiwan and Thailand have maintained distribution links in the Australian market as asserted by Liberty Steel in its application.

In the original investigation, the Commission found that Liberty Steel sets its prices by applying an Import Parity Pricing (IPP) process. It was found that HRS exported to Australia from the subject countries at dumped prices required Liberty Steel to match those prices. This resulted in Liberty Steel experiencing material injury.

In its application, Liberty Steel indicated that it continues to apply the IPP process⁷ and that pricing in the Australian market is driven by export prices of HRS exported from Japan, Korea, Taiwan and Thailand. Liberty Steel also stated that known import offers in the market are used as a tool by customers to negotiate lower prices from Liberty Steel, and therefore continued dumping would cause it to experience material injury in the form of:

- price suppression;
- reduced profits and profitability;
- reduced revenues; and
- reduced market share.

Liberty Steel provided evidence to support its claims.

The Commission has analysed the evidence provided by Liberty Steel and considers that the need for Liberty Steel to compete with the prices of dumped exports of HRS would cause Liberty Steel to experience pricing pressure which in turn may lead to injury in the forms set out above.

⁷ In page 26 of its application, Liberty Steel referred to the IPP as *import benchmark pricing*.

10. Conclusion

Having regard to the application, Liberty Steel's claims and other relevant information set out in this notice, I am satisfied that, in accordance with subsection 269ZHD(2)(b), there appears to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Based on the above findings, I have therefore decided to not reject the application.

11. This continuation inquiry

For the purposes of this continuation inquiry, I will examine the period from 1 January 2018 to 31 December 2018 (the inquiry period) to determine whether the anti-dumping measures should:

- (i) remain unaltered; or
- (ii) cease to apply to a particular exporter or to a particular kind of goods; or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- (iv) expire on the specified expiry day.

In Review 499, the applicant, the countries from which the goods are under review, the respective importers and exporters of HRS and the period being examined are identical to those in this continuation inquiry.

For the purposes of this continuation inquiry, I intend to have regard to other matters which I consider relevant to the inquiry, including the variable factors established in Review 499, to assess whether dumping has occurred during the inquiry period, and whether dumping is likely to continue or recur if the anti-dumping measures are not continued.

12. Proposed model control code structure

On 9 August 2018, the Commission advised in ADN No. 2018/128 that a model control code (MCC) structure would be implemented in new investigations, reviews of exporters generally or continuations for cases initiated after this date.⁸

The Commission will undertake model matching using the same MCC structure as that proposed for Review 499 and outlined at Appendix 1 to ADN No. 2019/02.

13. Public record

I must maintain a public record for this inquiry. The public record must contain, among other things, a copy of all submissions from interested parties.

Documents included in the public record may be examined at www.adcommission.gov.au or at the Commission's office by contacting the case manager on the details provided below.

⁸ Full guidance regarding the Commission's application of an MCC structure is provided in ADN No. 2018/128 on the Commission's website at www.adcommission.gov.au.

14. Submissions

Interested parties, as defined in subsection 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than the close of business on **20 March 2019**, being 37 days after publication of this notice. The Commission's preference is to receive submissions by email to investigations2@adcommission.gov.au.

Submissions may also be addressed to:

The Director, Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received after the date indicated above if to do so would, in my opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked 'FOR OFFICIAL USE ONLY'. Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked 'PUBLIC RECORD').

15. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister for Industry, Science and Technology (the Minister) within the legislative timeframe. I will place the SEF on the public record on or before **3 June 2019**,⁹ that is, within 110 days after the publication of this notice, or by such later date as I may allow in accordance with subsection 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

⁹ The due date is 1 June 2019. However, as this falls on a Saturday, the effective due date is the next business day.

16. Report to the Minister

I will make a recommendation to the Minister in a report on or before **16 July 2019**, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with subsection 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

17. The Commission contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2428 or investigations2@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission
11 February 2019