



CUSTOMS ACT 1901 - PART XVB
ANTI-DUMPING COMMISSION

**PRELIMINARY AFFIRMATIVE
DETERMINATION
REPORT NO. 223**

**HOT ROLLED STRUCTURAL STEEL SECTIONS
EXPORTED FROM
JAPAN, THE REPUBLIC OF KOREA, TAIWAN AND
THAILAND**

14 March 2014

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ABBREVIATIONS & SHORTENED FORMS

Abbreviation / short form	Full reference
ACBPS	Australian Customs and Border Protection Service
CTMS	costs to make and sell
HRS	hot rolled structural steel sections
Korea	Republic of Korea
MPa	Mega Pascals
NIP	non-injurious price
OneSteel	OneSteel Manufacturing Pty Ltd
PAD	Preliminary Affirmative Determination
PAD 223	Preliminary Affirmative Determination Report No. 223
SEF	Statement of Essential Facts
TCO	Tariff Concession Orders
The Act	<i>Customs Act 1901</i>
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner, of the Anti-Dumping Commission
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry
USP	unsuppressed selling price

1 SUMMARY & PRELIMINARY DECISIONS

1.1 Background

This Preliminary Affirmative Determination (PAD) Report No. 223 (PAD 223) sets out the reasons underlying the decision by the Commissioner of the Anti-Dumping Commission (the Commissioner) under section¹ 269TD of the *Customs Act 1901* (the Act)² to make a PAD. A PAD allows the Australian Customs and Border Protection Service (ACBPS) to take dumping securities in relation to imports of hot rolled structural steel sections (HRS) exported to Australia from Japan, the Republic of Korea (Korea), Taiwan and Thailand if the officer of the ACBPS taking the securities is satisfied that it is necessary to do so to prevent material injury to the Australian industry while the investigation continues.

The preliminary findings, conclusions and provisional calculations discussed in this report are made for the purpose of the PAD and are based on information available at the time of making the PAD. It is possible for these findings, conclusions and calculations to change between the time of the publication of the PAD and the publication of the statement of essential facts (SEF) for the investigation.

1.2 PAD and provisional dumping measures

In making the PAD, the Commissioner is satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in relation to HRS exported to Australia from Japan, Korea, Taiwan and Thailand.

The Commissioner considers that ACBPS should require and take securities under s.42 of the Act in respect of interim dumping duty that may become payable in relation to HRS exported to Australia from Japan, Korea, Taiwan and Thailand. This is on the basis of the Commissioner being satisfied that it is necessary to do so to prevent material injury to the Australian industry occurring while the investigation continues.

The securities will apply to imports of HRS from Japan, Korea, Taiwan and Thailand entered for home consumption on or after **14 March 2014**.

The following determination and public notice give effect to the Commissioner's decision:

- the determination for PAD No. 223 (**Confidential Attachment 1** refers); and
- the public notice (**Non-Confidential Attachment 1** refers).

1.3 Application of law to facts

Division 2 of Part XVB of the Act sets out procedures for the consideration of anti-dumping matters by the Commissioner.

¹ The terms section (s) and subsection are used interchangeably in this report.

² References to any section or subsection shall be references to sections or subsections of the *Customs Act 1901* unless

² References to any section or subsection shall be references to sections or subsections of the *Customs Act 1901* unless otherwise specified.

1.3.1 The role of the Commissioner

The Commissioner may make a PAD at any time after 60 days from the date of initiation of an investigation if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice, or that it appears that there will be sufficient grounds subsequent to the importation of the goods into Australia. In deciding whether to make a PAD the Commissioner must have regard to the application; any submissions concerning the publication of the notice that are received within 40 days after the date of initiation of the investigation; and any other matters the Commissioner considers relevant.

Furthermore, if ACBPS decides to require and take securities at the time of the determination, or at a later time in the investigation, being satisfied that doing so is necessary to prevent injury to the Australian industry, the Commissioner must also give public notice of that decision.

1.4 Preliminary assessments

1.4.1 Australian industry and like goods (chapter 5 of this report)

There is an Australian industry producing like goods (HRS) to the goods the subject of the investigation and these like goods are wholly manufactured in Australia by OneSteel Manufacturing Pty Ltd (OneSteel).

1.4.2 Dumping (chapter 7 of this report)

The Anti-Dumping Commission (the Commission) has preliminarily assessed that:

- HRS exported to Australia from Japan, Korea, Taiwan and Thailand during the investigation period was dumped;
- HRS exported from Taiwan by Feng Hsin Iron and Steel Co Ltd, and TS Steel Co Ltd was dumped, however this dumping has been preliminarily assessed as negligible; and
- the volume of dumped goods from these countries, and the dumping margin for each exporter (except Feng Hsin Iron and Steel Co Ltd and TS Steel Co Ltd) was not negligible.

The Commission's preliminary assessment of dumping margins for HRS exported from Japan, Korea, Taiwan and Thailand is outlined below:

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Country	Exporter / Manufacturer	Preliminary dumping margin
Korea	Hyundai Steel Company	2.2%
	<i>Uncooperative exporters</i>	5.3%
Taiwan	Feng Hsin Iron and Steel Co Ltd	0.7
	Tung Ho Steel Enterprise Corporation	3.7%
	TS Steel Co Ltd	1.5%
	<i>Uncooperative exporters</i>	5.2%
Thailand	Siam Yamato Steel Co Ltd	14.2%
	<i>Uncooperative exporters</i>	23.7%
Japan	JFE Bars and Shapes	5.8%
	<i>Uncooperative exporters</i>	11.7%

Table 1- Preliminary dumping margins

At this stage of the investigation dumping securities will not be taken in respect of exporters where the dumping margin was determined to be negligible.

1.4.3 Injury (chapter 8 of this report)

The Commission has preliminarily found that in the investigation period the Australian industry producing like goods experienced injury in the form of:

- price depression;
- price suppression;
- reduced profits;
- reduced profitability; and
- reduced revenue.

1.4.4 Causation (chapter 9 of this report)

The Commission has preliminarily assessed that dumping of HRS by exporters from Japan, Korea, Taiwan and Thailand caused material injury to the Australian industry producing like goods.

2 BACKGROUND

On 26 August 2013, OneSteel lodged an application requesting that the then relevant Minister, the Minister for Home Affairs, publish a dumping duty notice in respect of HRS exported from Japan, Korea, Taiwan and Thailand.

The application alleges that the Australian industry has suffered material injury caused by HRS exported to Australian from Japan, Korea, Taiwan and Thailand at dumped prices.

OneSteel subsequently provided additional information and data on several occasions. As a result, the Commission restarted the 20 day period for consideration of the application.

2.1 Initiation of dumping investigations

Following consideration of the application, the Delegate of the Commissioner decided not to reject the application and the Commission initiated an investigation on 24 October 2013. Public notification of initiation of the investigation was made in *The Australian* newspaper on 24 October 2013. Anti- Dumping Notice (ADN) No. 2013/75 provides further details of the investigation and is available on the Commission's website at www.adcommission.gov.au

In respect of the investigation:

- the investigation period³ for the purpose of assessing dumping is 1 October 2012 to 30 September 2013; and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 July 2009.

2.2 SEF and final report due dates

The initiation notice advised that the SEF for the investigation would be placed on the public record by 11 February 2014. The Commissioner requested that the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) extend the prescribed 110 days for publication of the SEF, as the timeframe proved to be insufficient.⁴ Pursuant to s.269ZHI of the Act, the Parliamentary Secretary approved an extension of time to publish the SEF, which is now due on or before 12 May 2014. The final report with the Commission's recommendations is now due to the Parliamentary Secretary on or before 26 June 2014.

2.3 Submissions

The Commission has received submissions from a number of interested parties. These submissions have been considered and will continue to be considered as the investigation progresses.

³ S. 269T(1) refers.

⁴ The extension of time granted to issue the SEF was detailed in ADN 2014/10.

3 ABILITY TO MAKE A PAD AND TAKE SECURITIES

3.1 Ability to make a PAD

At any time not earlier than 60 days after the date of initiation of an investigation into to whether there are sufficient grounds for the publication of a dumping duty notice, in respect of goods the subject of an application, the Commissioner may, if he or she is satisfied that:

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

make a PAD under s.269TD of the Act to that effect.

In deciding whether to make a PAD the Commissioner must have regard to the application concerned, any submissions concerning publication of the notice that are received by the Commission within 40 days after the date of initiation of the investigation, and any other matters that the Commissioner considers relevant. The Commissioner is not obliged to have regard to any submission received after day 40 if to do so would prevent the timely consideration of whether or not to make a PAD.

3.2 Ability to take securities

ACBPS may, at the time of the Commissioner making a PAD or at any later time during the investigation, require and take securities under s.42 of the Act in respect of interim duty that may become payable if the officer of the ACBPS taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues⁵.

3.3 Information considered

In making the PAD in respect of HRS, the Commission has had regard to:

- the application for the dumping duty notice;
- submissions and questionnaire responses (verified and unverified); and
- other matters that the Commissioner considered relevant.

⁵ S.269TD(4)(b)

4 THE GOODS UNDER INVESTIGATION

4.1 The description

In its application, OneSteel described the goods under consideration (GUC) as:

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 investigation.

Goods excluded from this investigation are:

- *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).*

4.1.1 Product information

In support of the goods description, OneSteel stated in its application:

In Australia the goods are commonly known as universal beams, universal columns, universal bearing piles, parallel flange channels and both equal and unequal angles. Universal columns typically have their web lengths similar to their flange lengths, whereas universal beams typically have longer webs than flanges. In some other countries the term "H beams" applies to both universal beams and universal columns and the term "I beams" denotes tapered flange beams.

The common grades of steel that the goods subject to this application are sold to are grade 300 and grade 350. The minimal yield stress of the grade 300 refers to 300 Mega Pascals (MPa) and the minimal yield stress for grade 350 is 350 MPa.

The type of alloys that may be incorporated into the HRS steel sections include but is not limited to boron (typically with a boron amount above 0.0008 per cent or chromium above 0.3%). For clarity, the inclusion of alloy(s) is limited to the shapes and sizes identified above.

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The majority of the goods that are subject to this application are manufactured to comply with or exceed the requirements set out in AS/NZS 3679.1:2010 Structural steel Part 1: Hot-rolled bars and sections.

Imported goods are mostly quoted to AS/NZS 3679.1, but if not will generally be quoted to an international standard that stipulates nominal yield strength of 300 Mega Pascals (MPa).

4.1.2 Tariff classifications

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 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*).

For the tariff subheadings outlined above, the general rate of duty is 5% for goods imported from Japan, and there is no duty for imports from Korea, Taiwan and Thailand.

Goods identified as hot rolled other alloy steel sections, as per the specified shapes and sizes described above, are currently classified to tariff subheading 7228.70.00 statistical code 56 in Schedule 3 of the *Customs Tariff Act 1995*. The applicable duty rate for imports from Japan, Korea and Taiwan is 5%, and imports from Thailand attract no duty.

4.1.3 Tariff Concession Orders (TCO)

In *Consideration Report 223* (CON 223), the Commission indicated that TCO 0513491 and 0513492 may apply to such goods that are classified to tariff subheading 7216.32.00 and 7228.70.00, respectively. After further examination of the description of the goods under consideration and relevant technical specifications, as well as the goods description contained in TCO 0513491 and 0513492, the Commission has determined that neither of the TCOs apply to the goods under consideration.

As of 5 January 2014, TCO 0513492 has been revoked due to two years of non-use. The revocation of TCOs, which have not been used for a period of two years, is part of the review of Schedule 4 of the *Customs Tariff Act 1995*, and was announced as part of the Government's better regulation and micro-economic reform agenda.⁶

⁶ See ACN 2010/18 – Review of Schedule 4 of the Customs Tariff Act 1995 refers.

5 PRELIMINARY AUSTRALIAN INDUSTRY AND LIKE GOODS ASSESSMENT

5.1 Preliminary assessment

The Commission has preliminarily assessed that, based on the information available at the time of making the PAD, there is an Australian industry producing like goods to the goods the subject of the application and that these goods are wholly manufactured in Australia.

5.2 Like goods

Subsections 269T(2) and 269T(3) of the Act specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

Subsection 269T(1) of the Act defines like goods as:

goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Having undertaken verification visits to OneSteel's Whyalla plant, as well as to importers of HRS, the Commission has preliminarily assessed that OneSteel is the sole producer of HRS in Australia and wholly manufactures the goods, and thus comprises the Australian industry.

5.2.1 Preliminary assessment - like goods

The Commission has preliminarily assessed that OneSteel has demonstrated the following in relation to HRS:

- *physical likeness* - the primary physical characteristics of the goods and locally produced goods are similar;
- *commercial likeness* - the goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- *functional likeness* - the goods and locally produced goods are functionally alike as they have a same range of end-uses; and
- *production likeness* - the goods and locally produced goods are manufactured in a similar manner.

The Commission preliminarily considers that OneSteel produces like goods that are identical to, or have characteristics closely resembling, the goods.

6 AUSTRALIAN MARKET

6.1 Background

The key Australian market segments for structural steel are commercial construction, mining and resource construction, engineering fabrication, and to a lesser degree, residential construction, manufacturing and piling. The relative strengths and weaknesses of these key market segments drive the overall market size.

Universal columns are generally used in vertical support applications, whilst universal beams and channels are used in horizontal applications. Structural angles are generally used in bracing applications.

6.1.1 Market distribution

OneSteel explained that the Australian HRS market is predominantly supplied by large distributors who on-sell HRS to resellers or sell directly to end users. Australian distributors purchase HRS from OneSteel or through large steel trading houses that import HRS.

OneSteel explained that the majority of its customers are considered to be large to medium-sized distributors. OneSteel explained that distributors generally purchase a combination of imported and locally-produced HRS.

6.1.2 Market size

In its application, OneSteel submitted its estimates of the Australian market size and share of HRS over the last four financial years. The Commission considered and verified the data submitted by OneSteel and compared this with data from the ACBPS database. The preliminarily assessed Australian market size estimate is depicted in Figure 1 below. The Commission filtered the data for the relevant tariff classifications, goods descriptions and price ranges, to identify the goods.

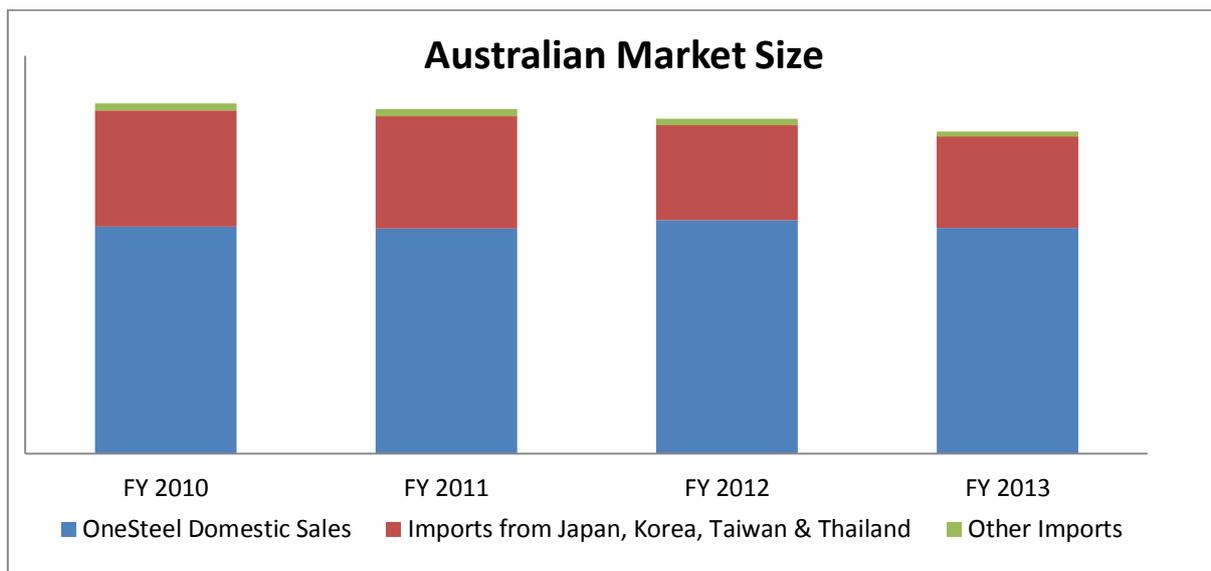


Figure 1 - Australian Market Size for HRS – FY 2010 to FY 2013

(note: FY refers to the period 1 October to 30 September)

7 PRELIMINARY DUMPING ASSESSMENT

7.1 Preliminary assessment

The Commissioner is preliminarily satisfied based on the verified and unverified information and data available at the time of making the PAD that exports of HRS from Japan, Korea, Taiwan and Thailand were dumped during the investigation period.

At the time of publication of the PAD, substantially completed questionnaire responses were received by the Commission from the following exporters:

- Siam Yamato Steel Co Ltd
- JFE Bar and Shapes
- TS Steel Co Ltd
- Feng Hsin Iron and Steel Co Ltd
- Tung Ho Steel Enterprise Corporation; and
- Hyundai Steel Company.

A trader, Leong Huat Hardware Pte Ltd, also cooperated and provided a complete exporter questionnaire response. Treatment of traders in terms of preliminary dumping margins is discussed at section 7.1.1 of this report.

The Commission makes a preliminary assessment that:

- HRS exported to Australia from Japan, Korea, Taiwan and Thailand during the investigation period was dumped;
- HRS exported from Taiwan by Feng Hsin Iron and Steel Co Ltd, and TS Steel Co Ltd were dumped, however this dumping has been preliminarily assessed as negligible; and
- the volume of dumped goods from these countries, and the dumping margins for all exporters (except Feng Hsin Iron and Steel Co Ltd and TS Steel Co Ltd) were not negligible.

Preliminary dumping margins are tabulated below:

Country	Exporter / Manufacturer	Preliminary dumping margin
Korea	Hyundai Steel Company	2.2%
	<i>Uncooperative exporters</i>	5.3%
Taiwan	Feng Hsin Iron and Steel Co Ltd	0.7%
	Tung Ho Steel Enterprise Corporation	3.7%
	TS Steel Co Ltd	1.5%
	<i>Uncooperative exporters</i>	5.2%
Thailand	Siam Yamato Steel Co Ltd	14.2%
	<i>Uncooperative exporters</i>	23.7%
Japan	JFE Bars and Shapes	5.8%
	<i>Uncooperative exporters</i>	11.7%

Table 2 - Preliminary dumping margins

7.1.1 Traders

For the purpose of the PAD, the Commission considers that manufacturers are the exporters for all sales to Australia. Therefore, where a completed exporter questionnaire has been received by the Commission from a trader, a separate dumping margin has not been calculated. The dumping margin applicable for these shipments is the dumping margin applicable to the relevant manufacturer of the goods.

The Commission will further examine this issue as the investigation progresses.

7.2 Preliminary treatment of exporters

7.2.1 Properly documented exporter questionnaire responses

For exporter data that has not yet been verified, dumping margins have been calculated on the basis of preliminary information provided in each exporter questionnaire response which will be further verified during the course of the investigation. At the time of writing this report, the Commission has undertaken verification of the data of one exporter, Tung Ho Steel Enterprise Corporation, from Taiwan. In the case of that exporter, verified data has been used to calculate a preliminary dumping margin.

Information for the purposes of preliminary dumping calculations for the PAD was drawn from the following sources:

Country	Exporter / Manufacturer	Data used to calculate preliminary dumping margin
Korea	Hyundai Steel Company	Exporter questionnaire response
Taiwan	Feng Hsin Iron and Steel Co Ltd	Exporter questionnaire response
	Tung Ho Steel Enterprise Corporation	Verified data from visit to exporter
	TS Steel Co Ltd	Exporter questionnaire response
Thailand	Siam Yamato Steel Co Ltd	Exporter questionnaire response
Japan	JFE Bars and Shapes	Exporter questionnaire response

Table 3 - Exporters that provided data used to assess preliminary dumping margins

As discussed previously, the preliminary export prices, preliminary normal values and preliminary dumping margins determined for the PAD are based on available information at the time of the PAD. These preliminary calculations are indicative only and as further verified information becomes available the preliminary calculations may change.

OneSteel lodged five submissions in respect of exporter questionnaire responses.⁷ Each submission focuses on a HRS exporter and provides discussion and reasoning

⁷ Each submission has been placed on the public record. Refer to documents EPR 223/024 and EPR 223/027 – 030.

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as to the adjustments required to compare normal values and export prices (e.g. grade and tolerance variations).

The Commission notes these submissions; however for the purposes of the PAD and calculating preliminary dumping margins, these adjustments submitted by OneSteel have not been made to unverified exporter data. The Commission will consider the merits of each such proposed adjustment individually, as the investigation progresses and following further exporter data verification.

7.2.2 Exporter questionnaire responses and insufficient information

The Commission contacted all exporters of goods falling within the relevant tariff classifications for HRS, as identified in the ACBPS import database. Some exporters failed to respond to the Commission's requests for cooperation. Other exporters provided evidence to support that their goods were not the goods subject to the investigation.

The Commission did not receive information relevant to the investigation within a reasonable period from the following exporters:

- Mitsui & Co Ltd, from Japan;
- Nippon Steel and Sumitomo Metal Corporation, from Japan;
- Alexandra Asia Ent Co Ltd, from Taiwan; and
- Hyosung Corporation, from Korea.

Under s.269T(1) of the Act these exporters are considered uncooperative, and the Commission is unable to calculate individual dumping margins for them. These exporters were advised of the Commission's position by correspondence, copies of which were published on the public record for the investigation.

For the purposes of the PAD, individual dumping margins have not been assessed for any exporters other than those listed at section 7.2.1.

7.3 Korea

7.3.1 Hyundai Steel Company

Preliminary export prices for Hyundai Steel Company were established pursuant to s.269TAB(1)(a) of the Act using the invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for certain exported models were determined under s. 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s.269TAC(8).

Using relevant information contained in Hyundai Steel Company's questionnaire response, the Commission calculated a product dumping margin by comparing the weighted average export price with the corresponding weighted average normal value over the investigation period.

The preliminary dumping margin for Hyundai Steel Company is 2.16%.

7.4 Taiwan

7.4.1 TS Steel Co Ltd

Preliminary export prices for exports by TS Steel Co Ltd were established pursuant to s.269TAB(1)(a) of the Act using the invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for certain exported models were determined under s.269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s.269TAC(8).

Using relevant information contained in TS Steel Co Ltd's questionnaire response, the Commission calculated a product dumping margin by comparing the weighted average export price with the corresponding weighted average normal value over the investigation period.

The preliminary dumping margin for TS Steel Co Ltd is 1.53%.

7.4.2 Feng Hsin Iron and Steel Co Ltd

Preliminary export prices for Feng Hsin Iron and Steel Co Ltd were established pursuant to s.269TAB(1)(a) of the Act using the invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for certain exported models were determined under s. 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s.269TAC(8).

Using relevant information contained in Feng Hsin Iron and Steel Co Ltd's questionnaire response, the Commission calculated a product dumping margin by comparing the weighted average export price with the corresponding weighted average normal value over the investigation period.

The preliminary dumping margin for Feng Hsin Iron and Steel Co Ltd is 0.69%.

7.4.3 Tung Ho Steel Enterprise Corporation

Preliminary export prices for Tung Ho Steel Enterprise Corporation were established pursuant to s.269TAB(1)(a) of the Act using the invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for certain exported models were determined under s. 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s.269TAC(8).

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Using verified information obtained from Tung Ho Steel Enterprise Corporation, the Commission calculated a product dumping margin by comparing the weighted average export price with the corresponding weighted average normal value over the investigation period.

The preliminary dumping margin for Tung Ho Steel Enterprise Corporation is 3.7%.

7.5 Thailand

7.5.1 Siam Yamato Steel Co Ltd

Preliminary export prices for exports by Siam Yamato Steel Co Ltd were established pursuant to s.269TAB(1)(a) of the Act using the invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for certain exported models were determined under s.269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s.269TAC(8).

For the purpose of the PAD, the Commission has not made an adjustment for claimed level of trade differences between domestic and export sales as it is not yet satisfied that such an adjustment is warranted. The need to adjust for level of trade differences will be further examined in the course of the investigation.

Using relevant information contained in Siam Yamato Steel Co Ltd's questionnaire response, the Commission calculated a product dumping margin by comparing the weighted average export price with the corresponding weighted average normal value over the investigation period.

The preliminary dumping margin for Siam Yamato Steel Co Ltd is 14.16%.

7.6 Japan

7.6.1 JFE Bars and Shapes

Preliminary export prices for JFE Bars and Shapes were established pursuant to s.269TAB(1)(a) of the Act using the invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for certain exported models were determined under s. 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade at the same level of trade as export sales. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s.269TAC(8).

Using relevant information contained in JFE Bars and Shapes' questionnaire response, the Commission calculated a product dumping margin by comparing the weighted average export price with the corresponding weighted average normal value over the investigation period.

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The preliminary dumping margin for JFE Bars and Shapes is 5.81%.

7.7 Uncooperative exporters (all other)

Subsection 269TACAB sets out the provisions for calculating export prices and normal values for uncooperative exporters. For export price this is determined using s.269TAB(3). The Commission used the lowest weighted average export prices for the entire investigation period from the co-operating exporters of the relevant country, excluding any part of that price that relates to post-exportation charges, and excluding any other unverified adjustments.

Preliminary normal values for domestic sales by all uncooperative exporters were established in accordance with s.269TAC(6) of the Act. The Commission used the highest weighted average normal values for the entire investigation period from co-operating exporters of the relevant country, without favourable adjustments.

The preliminary dumping margins for uncooperative exporters were established in accordance with s.269TACB(2)(a) of the Act, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period for the relevant country.

The preliminary dumping margin for uncooperative exporters by country is outlined in the table at section 7.1.

7.8 Dumping margin summary

The Commission's preliminary calculation of export prices, preliminary normal values and preliminary dumping margins in respect of HRS are at **Confidential Attachment 2**.

These preliminary calculations are indicative and based on the information available at the time of making the PAD. As further verified information becomes available, these preliminary calculations may change as verification visit reports for exporters are finalised and other relevant submissions fully considered.

7.9 Volumes

Pursuant to s.269TDA(4) of the Act, the Commission examined the volume of goods for each exporter over the investigation period to determine if the volume of those goods calculated to be dumped was negligible.

As outlined in section 6.1.2, the Commission calculated the size of the Australian market. The Commission further refined this information by contacting importers to request commercial documents to substantiate whether they were importers of HRS. The Commission also used import volumes provided in questionnaire responses. Using this information, the Commission is satisfied that when expressed as a percentage of the total Australian imported volume of the goods, the volume of dumped goods from each country was greater than 3% and therefore not negligible.

8 PRELIMINARY INJURY ASSESSMENT

8.1 Preliminary injury assessment approach

The preliminary injury analysis detailed in this section is based on verified financial information submitted by OneSteel and import data from the ACBPS import database. The data provided by OneSteel was verified during an industry verification visit and through subsequent discussions held with OneSteel relating to the verification visit. Details of the outcome of the verification visit are contained in the Australian industry verification report, which is available on the public record.

Based on the verification of the financial data provided by OneSteel, the Commission considers this information to be reliable for the purposes of making a preliminary assessment of the material injury claims made by OneSteel in relation to:

- price depression;
- price suppression;
- reduced profits and profitability; and
- reduced domestic revenues.

8.2 Legislative framework

Under s.269TG of the Act, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that because of the dumping, material injury has been or is being caused or is threatened to the Australian industry producing like goods.

8.3 Commencement of injury, and analysis period

OneSteel submitted in its application that material injury caused by the importation of dumped HRS has been occurring for a number of years, with an increased impact being experienced during the 2013 financial year.

As specified in *CON 223*, the Commission has set the period for assessing the condition of the Australian industry from 1 July 2009.

Charting and analysis has been completed both on a quarterly basis for the full injury analysis period, and also constructed as an annualised, 12 month period, over a four year duration. The annualised charts cover the full injury analysis period, except for the period 1 July 2009 to 30 September 2009, and are aligned with the investigation period, 1 October 2012 to 30 September 2013.

8.4 Cumulation of injury

Subsection 269TAE(2C) of the Act provides for consideration of the cumulative effect of exports from different countries, if, after having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced

the Minister is satisfied that it is appropriate to consider the cumulative effects of goods from different countries.

The conditions of competition between imported and domestically produced HRS are similar. The Commission has established that both importers and OneSteel are selling the product predominantly into the same market segment, distributors. Information received during both the importer and the Australian Industry visits indicate that some sales may be made to other market segments (e.g. end users).

Furthermore, domestically produced HRS can be directly substituted with the exported HRS and evidence indicates that the importers' customers, predominantly end-users, are directly competing with OneSteel's distribution network. All importers indicated that they only imported HRS which, as a minimum, met the requirements of the applicable Australian standard.

Two of the importers subject to verification visits by the Commission imported from at least two of the countries subject to the investigation and sold the imported HRS to their customer base. This indicates that the products from different countries are used by the same or similar customers (of the importer).

The goods are alike, have similar specifications and end-uses, and compete in the same markets. This has been verified during importer, exporter and Australian industry visits completed to date.

The Commission considers the conditions of competition are such that it is appropriate to consider the cumulative effect of the dumped imports from Japan, Korea, Taiwan and Thailand.

8.5 Price depression and suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Figure 2 illustrates the movements in, and relationship between, OneSteel's total domestic HRS cost to make and sell (CTMS) and revenue.

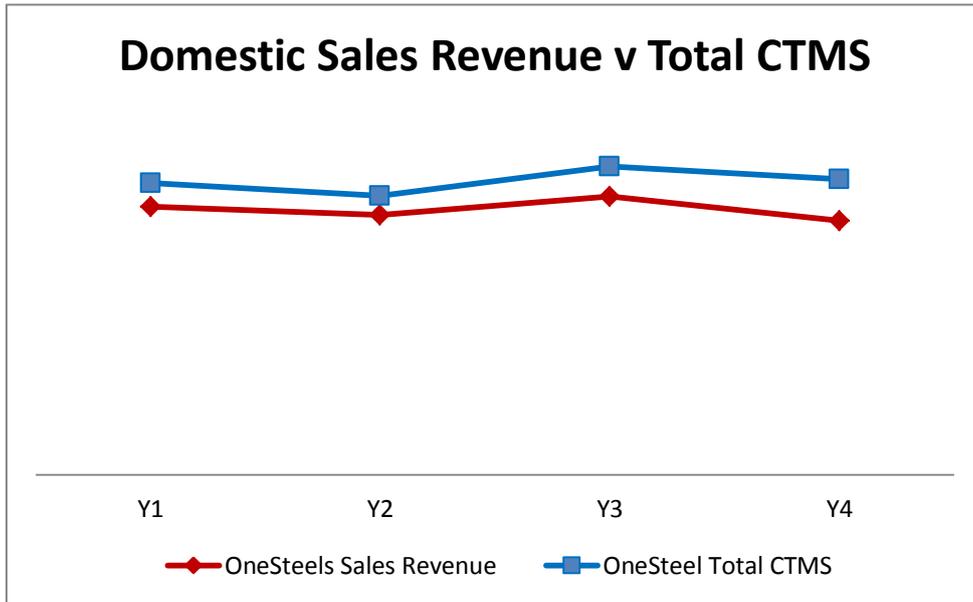


Figure 2 – Domestic Sales Revenue v Total CTMS (Yearly)
 Note: Each year refers to a period between 1 October and 30 September.

Figure 3 illustrates the movements in, and relationship between, OneSteel’s weighted average unit selling prices and unit CTMS.

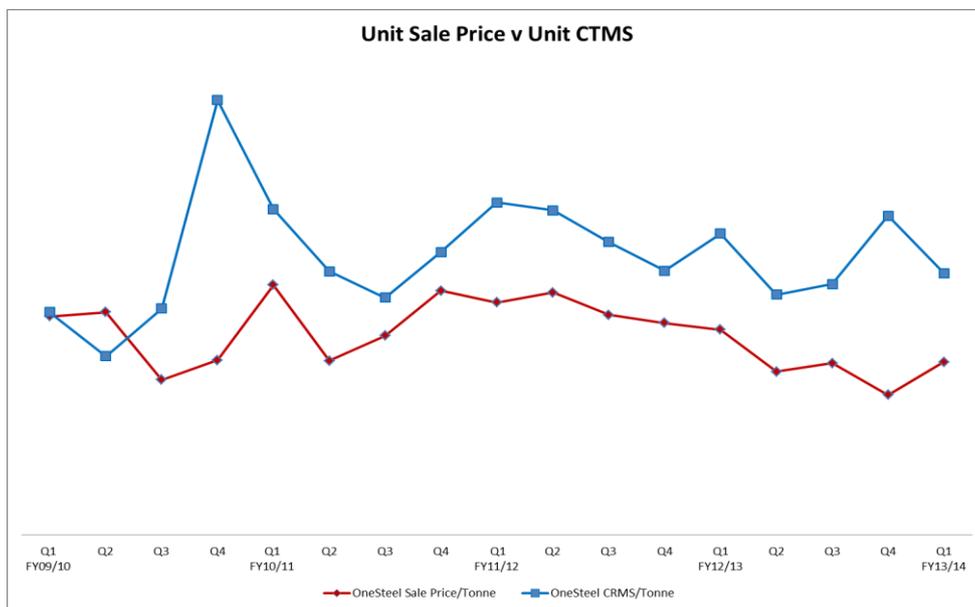


Figure 3 – Unit Sales Price v Unit CTMS (Qtrly)

Figure 4 illustrates the movements in, and relationship between, OneSteel’s domestic per unit revenue and per unit CTMS.

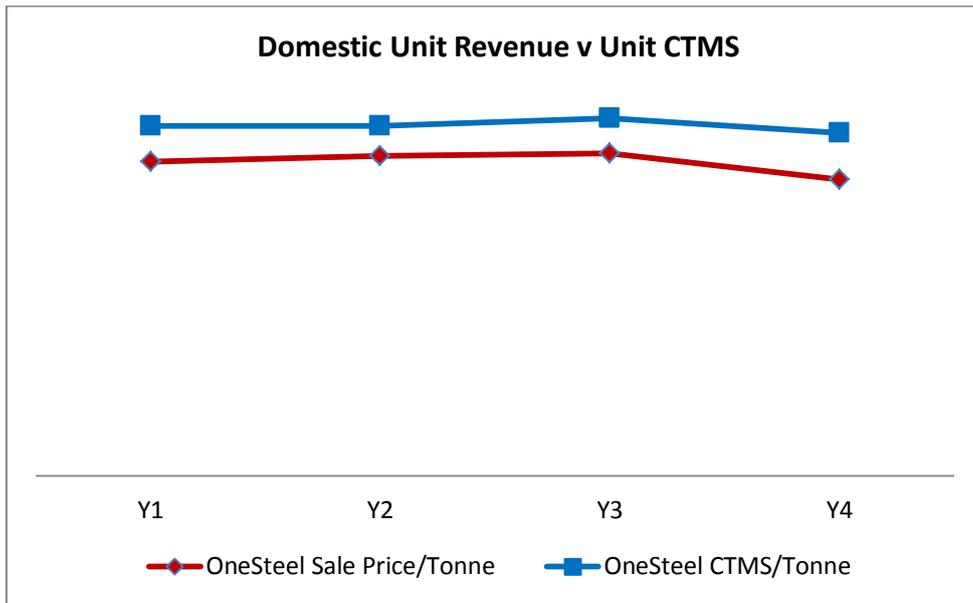


Figure 4 – Domestic Unit Sales Revenue v Unit CTMS (Yearly)
Note: Each year refers to a period between 1 October and 30 September

Figures 2 to 4 illustrate that, for a significant proportion of the charted period, OneSteel’s CTMS has exceeded revenue, both on a weighted average value basis and total value basis.

The Commission observed various quarterly spikes in CTMS and revenue during the injury analysis period. We discussed this with OneSteel, and it explained that:

- the significant spike in CTMS for Q4 of FY 2010 (see Figure 3) related to an incident involving a blast furnace at OneSteel’s Whyalla Steelworks which resulted in lost production in that quarter and increased costs for that quarter; and
- the reason for the spike in unit revenue in Q1 of FY2011 (see Figure 3) related to an increase in OneSteel’s Import Parity Price (IPP). The increased IPP resulted from increases in the price of scrap increasing import prices as well as movements in the Australian dollar.

Figure 5 illustrates unit revenue as a proportion of unit CTMS based on annual data.

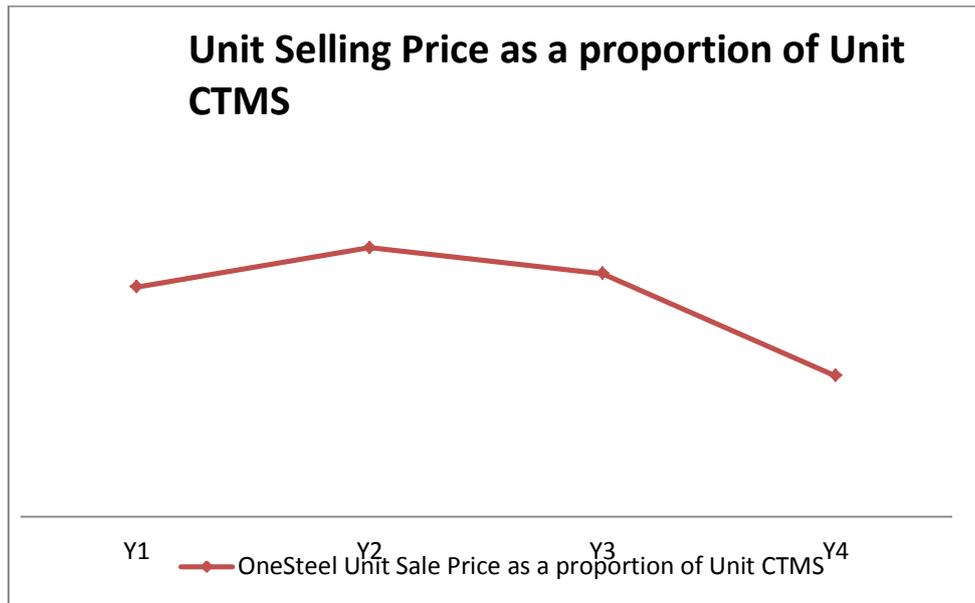


Figure 5 – Unit revenue as a proportion of unit CTMS (Yearly)
Note: Each year refers to a period between 1 October and 30 September

Figures 4 and 5 show that:

- unit revenue as a proportion of unit CTMS has declined on an annualised basis since 2011; and
- Although unit CTMS has reduced by 4% in FY 2013, the unit selling price has had a greater rate of decline, of 9%, over this period.

In conclusion, graphs 2 to 4 demonstrate that for a significant portion of the four year assessment period, CTMS has exceeded revenue. Figure 4 illustrates that in year 4 OneSteel’s revenue per unit sold declined. This is demonstrative of OneSteel reducing prices, which is indicative of price depression. This is consistent with OneSteel’s comments in their application that “*the approximate 8 per cent decline in average HRS selling prices in 2013 contrasted with a reduction in unit costs of approximately 3.6 per cent (which) was the cause of the rapid profit deterioration.*” Further, figure 5 illustrates that the proportion between unit revenue and unit CTMS deteriorated between years two and four of the injury assessment period. The deteriorating margin between revenue and CTMS for OneSteel is indicative of price suppression.

8.6 Volume trends

In its application, OneSteel has not claimed material injury in relation to loss of sales volume and market share.

OneSteel submitted it is a volume sensitive supplier and has maintained its sales volume by lowering its prices. OneSteel highlighted the necessity of maintaining volume, to ensure the viability of their business. During the verification visit OneSteel explained its integrated manufacturing process and the requirement to maintain minimum production volumes due to the continuous usage requirements of the blast furnace.

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OneSteel stated in its application that, despite maintaining market volume through reduced pricing, the market share held by dumped goods is still significant. In the absence of dumping, OneSteel argued that it would likely increase its sales volumes of HRS domestically. OneSteel also submitted that it would benefit through reduced production costs brought about by improved production utilisation rates.

Figure 6 below, illustrates OneSteel's domestic sales volumes (in tonnes) on an annual basis.

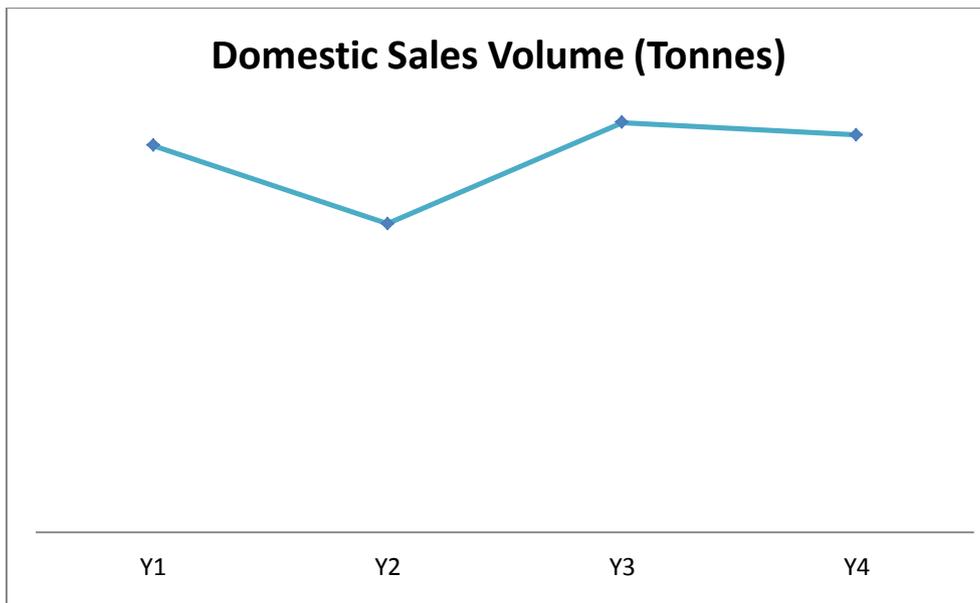


Figure 6 – OneSteel Domestic Sales Volume (Yearly)
Note: Each year refers to a period between 1 October and 30 September

This graph illustrates that apart from a reduction in Year 2, OneSteel has largely maintained its sales volume over the charted period. This is consistent with OneSteel's submission that it is a volume sensitive supplier that has maintained its sales volume by lowering its prices.

8.7 Profit and profitability

Movements in OneSteel's annualised profits and profitability is illustrated in the following figure.

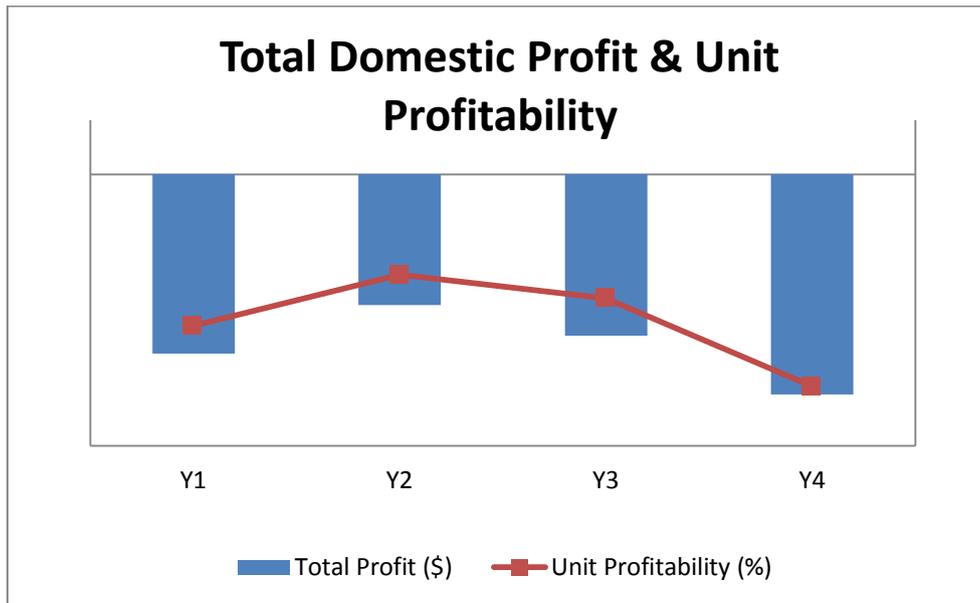


Figure 7 – Total Profit & Unit Profitability (Year)
Note: Each year refers to a period between 1 October and 30 September

Figure 7 demonstrates that on an annualised basis profit and profitability have been negative across the injury analysis period and show a declining trend from Year 2 onwards.

This is consistent with OneSteel’s representations relating to its decreasing profitability and profit during the injury analysis period.

8.8 Other injury indicators

In support of its claim of material injury, OneSteel provided information in Appendix A7 of its application in relation to reduced domestic revenue, capacity utilisation and employment.

Domestic Revenue

Domestic revenue declined in 2013, after three years of growth, for all manufactured products at the Whyalla Steelworks. Figure 4 shows the revenue decline from adjusted year 3.

Capacity utilisation

OneSteel provided information on its capacity utilisation, which is based on production volumes and budgeted capacity. The Commission noted OneSteel’s capacity utilisation has trended downwards over the injury analysis period.

Employment

The Commission noted a fluctuation of staff employed in the production of HRS over the injury analysis period. OneSteel explained a reduction of staff occurred in 2013 as a result of an effort to reduce its costs, in response to declining profit margins.

8.9 Preliminary determination of injury indicators

Based on the preliminary analysis detailed above, there appear to be sufficient grounds to support the claim that OneSteel has experienced material injury in the form of:

- price depression;
- price suppression;
- reduced profits and profitability; and
- reduced domestic revenues.

The Commission has insufficient information to conclude that the reduced capacity utilisation and reduced employment suffered by OneSteel have contributed to material injury.

Notwithstanding the preliminary conclusions on material injury, the Commission will further analyse any additional information obtained, or provided to it, during the investigation.

9 PRELIMINARY CAUSATION ASSESSMENT

The Commission has preliminarily assessed that, based on verified and unverified information and data available at the time of making the PAD, HRS exported to Australia from Japan, Korea, Taiwan and Thailand at dumped prices have caused material injury to the Australian industry producing like goods.

The following section provides a summary of the Commission's key considerations in its preliminary causation assessment. The Commission is continuing to investigate, analyse and assess all causation factors.

9.1 Causation

OneSteel submitted that it arrives at its base pricing strategy for HRS through import parity pricing, coupled with the addition of a local premium. Hence the price of imports is a key factor in determining OneSteel's selling price.

OneSteel submitted that import offers are made monthly by exporting mills or via traders, and are generally released into the market two to three months ahead of importation. OneSteel explained that, on a monthly basis, it calculates and disseminates its price offers to customers, based on market intelligence available for the import offers as a benchmark, and then applies a premium reflective of the benefits of offering local supply.

Further detail on OneSteel's pricing system is detailed in the OneSteel Visit Report.

The imports against which OneSteel set its prices during the investigation period were found to be dumped, and as a result, OneSteel's prices were lower than they would have been had they been benchmarked against undumped prices.

The Commission considers that dumped imports were a significant factor in OneSteel's prices being suppressed and depressed, as well as lost profits and profitability, as it is reasonable to expect that in the absence of dumping, OneSteel's prices would have been higher by at least the margin of dumping. The nature of steel products is that products of the same specification (in this case product made to the relevant Australian standard) from different sources are generally interchangeable. As a result, the market is price sensitive and price is one of the primary factors affecting purchasing decisions. Imports during the investigation period had a competitive advantage stemming from the dumping margins found. Had OneSteel not set its price to be competitive with dumped imports, it would have lost sales volume and market share.

9.1.1 Price undercutting

For the purposes of the PAD, the Commission has undertaken preliminary analysis of price undercutting based on verified sales data from importers and OneSteel (**Confidential Attachment 4**). The Commission compared weighted average free into store (FIS) prices (AUD per tonne) of the imported goods sold by importers to OneSteel's net selling price (AUD per tonne) delivered, at a comparable level of trade. The Commission's preliminary analysis found that the prices of the imported goods from Japan, Korea, Taiwan, and Thailand undercut OneSteel's domestic selling prices on a monthly basis over the investigative period. These findings are

consistent with OneSteel's assertions that its prices are set on the basis of import parity plus a premium.

9.2 Other injury indicators

The Commission is continuing to investigate the impact of dumped imports of HRS from the nominated countries on the other injury factors.

9.3 Injury caused by factors other than dumping

The Commission notes that a strong Australian dollar (AUD) against the US Dollar, sitting in close parity with the US dollar, has made it more attractive for purchasers of HRS to seek supply from overseas, contributing to cheaper into-store prices for importers. However, the effect of the strong Australian dollar can be distinguished from the effects of dumping. Notwithstanding the applicable exchange rate, dumped imports will always be lower, by the dumping margin found, than they would have been in the absence of dumping.

Therefore, given the basis on which OneSteel establishes its selling prices in to the market, the strength of the Australian dollar does not weaken the assessment that OneSteel's prices are lower than what they otherwise would have been had HRS not been exported at dumped prices.

9.4 Summary

The Commission preliminarily considers that the price depression, price suppression, reduced profits and profitability, and reduced revenue indicates that for the purposes of making a PAD, the injury suffered by the Australian industry and caused by dumping is material.

10 PRELIMINARY NON INJURIOUS PRICE ASSESSMENT

10.1 Preliminary assessment

The Commission has preliminarily assessed the non-injurious price (NIP) as equal to the normal value for each exporter, on the basis that the injury caused by dumping is due to OneSteel's matching of import prices. The recommended level of securities is therefore at the full amount of the preliminary dumping margins found. As a result, the lesser duty rule does not come into effect.

10.2 Introduction

Duties may be applied where it is established that dumped or subsidised imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping, but the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if it is sufficient to remove the injury.

The NIP provides the mechanism whereby this lesser duty provision is given effect. It is the price that would be sufficient to remove the injury caused to the Australian industry by the dumping.

Dumping duties are based on free-on-board (FOB) prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission's preferred approach to establishing USPs observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices - industry CTMS plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export free on board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

10.3 Australian Industry

OneSteel submitted that in determining a USP for the Australian industry manufacturing like goods, selling prices prior to the investigation period are unsuitable, as exports from the nominated countries prior to the investigation period have caused material injury to the Australian industry.

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OneSteel submits that the most suitable method for determining the USP is to construct industry prices on the basis of OneSteel's CTMS during the investigation period, plus an appropriate amount of profit applied. OneSteel explained that its sales of HRS have resulted in negative returns in each of the three years preceding the investigation period. Furthermore, OneSteel explained that in the absence of a suitable level of profit sourced from its sales of HRS, OneSteel submits that a level of profit be derived from an internally-related manufacturing business and applied to the constructed USP. OneSteel contend that the related manufacturing business sources the same raw materials as the HRS business, and therefore the cost structures are not dissimilar.

10.4 The Commission's preliminary assessment

The Commission has firstly considered whether any of the preferred options for estimating the USP are appropriate in this case.

The Commission has noted OneSteel's claims that the historical sales data provided in the investigation has been affected by dumping. While claims made about the existence of dumping preceding the investigation cannot be substantiated, the Commission is not satisfied that using historical sales data is a suitable method for calculating the USP.

The Commission has also considered OneSteel's argument that a USP should be calculated using industry's costs plus a profit. The Commission considers, however, that the relevance of the profit proposed by OneSteel cannot be linked to HRS sales.

The Commission does not consider that the price from other countries in the Australian market are a suitable basis for a USP as it cannot determine whether those countries are also impacted by the dumped imports of the countries under consideration.

In the absence of a suitable method of determining the USP, the Commission has considered an alternative approach to establishing the NIP. As highlighted earlier in this report, OneSteel's prices are based on an equivalent into-store import parity price plus a local premium to account for the benefits of local supply.

The Commission is of the preliminary view that in a market unaffected by dumping, it is reasonable to expect that OneSteel would continue to set its prices with regard to benchmarked import prices. In this case, as the price of imports would be higher at least by the dumping margins found, it would be expected that OneSteel's prices would also be higher at least by the percentage of the dumping margin's found.

Accordingly, the Commission considers that the NIP for each exporter is a price equal to the respective normal value. This redresses the effects of dumping without redressing the effects of any other factors influencing price.

As the NIP is set at the same price as the normal value, the lesser duty rule does not come into effect.

Preliminary NIP calculations are at **Confidential Attachment 5**.

11 REASONS FOR MAKING A PAD

11.1 General

The Commission has been able to complete preliminary assessments of dumping based on verified and unverified information. The preliminary assessments show that exports of HRS from Japan, Korea, Taiwan and Thailand in the investigation period were exported at dumped prices. Furthermore, the volume and dumping margins of the dumped goods were not negligible.

The available evidence preliminarily indicates that increased competition from dumped imports has caused the Australian industry to suffer from price depression, price suppression, reduced profits and profitability and reduced revenue.

Based on the available information as at **14 March 2014**, the Commissioner is satisfied for the purpose of the PAD that:

- HRS has been exported from Japan, Korea, Taiwan and Thailand at less than their normal value;
- there is an Australian industry producing like goods that is experiencing injury; and
- the dumped goods are causing material injury to the Australian industry.

Consequently, the Commissioner is satisfied there appear to be sufficient grounds for the publication of a dumping duty notice in respect of HRS exported to Australia from Japan, Korea, Taiwan and Thailand.

The Commissioner has therefore made PAD No.223 under s.269TD of the Act to that effect.

In making the PAD, the Commissioner has had regard to the applications, verified and unverified submissions received within 40 days of the publication of the notice of initiation, and other matters the Commissioner considers relevant.

Additionally, the Commissioner has also had regard to other relevant information and data submitted by interested parties to the investigations and gathered by the Commission during its investigation so far (where appropriate), including:

- data from importers;
- data from exporters;
- data submitted by the Australian industry; and
- submissions made to the investigations from day 40 of the investigation to the date of making the PAD (where possible).

12 PROVISIONAL DUMPING MEASURES

12.1 Preliminary finding

Based on verified and unverified information and data available at the time of making the PAD, the ACBPS has decided to require and take securities in respect of imports of HRS from Japan, Korea, Taiwan and Thailand entered for home consumption on or after **14 March 2014**.

12.2 Preliminary assessment

The Commission understands that importers continue to place orders for preliminarily dumped goods from the nominated countries and exporters. The Commissioner is satisfied that securities are warranted to prevent material injury being suffered by the Australian industry whilst the investigation continues. The Commissioner considers that ACBPS should require and take securities under s.42 of the Act in respect of interim dumping duty that may become payable in relation to HRS exported from Japan, Korea, Taiwan and Thailand.

12.3 Preliminary provisional measures

Recent changes to the legislation allow the Parliamentary Secretary to utilise additional methods of calculating the interim dumping duty beyond the single form that was previously available in the Act. The new forms of duty are prescribed in the *Customs Tariff (Anti- Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method;
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (i.e. a percentage of the export price).

Securities will be taken in respect of HRS exported from Japan, Korea, Taiwan and Thailand, where the preliminary margin of dumping is greater than 2% with the securities being calculated ad valorem (i.e. a proportion of export price). Securities will be at the level of the full dumping margins calculated for the PAD, as tabulated below, except for Feng Hsin Iron and Steel Co Ltd and TS Steel Co Ltd, who will have a zero rate of securities:

Country	Exporter / Manufacturer	Preliminary dumping margin
Korea	Hyundai Steel Company	2.2%
	<i>Uncooperative exporters</i>	5.3%
Taiwan	Feng Hsin Iron and Steel Co Ltd	0.7%
	Tung Ho Steel Enterprise Corporation	3.7%
	TS Steel Co Ltd	1.5%
	<i>Uncooperative exporters</i>	5.2%
Thailand	Siam Yamato Steel Co Ltd	14.2%
	<i>Uncooperative exporters</i>	23.7%
Japan	JFE Bars and Shapes	5.8%
	<i>Uncooperative exporters</i>	11.7%

Table 4 - Preliminary provisional measures summary

13 APPENDICES & ATTACHMENTS

Non-Confidential Attachment 1	Public notice – PAD
Confidential Attachment 1	Commissioner Determination for PAD No. 223
Confidential Attachment 2	Preliminary export prices, preliminary normal values and preliminary dumping margins
Confidential Attachment 3	Preliminary injury assessment
Confidential Attachment 4	Preliminary price undercutting analysis
Confidential Attachment 5	Preliminary USP and NIPs