

PUBLIC RECORD



Australian Government
Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

TERMINATION OF INVESTIGATION No. 223

ALLEGED DUMPING OF HOT ROLLED STRUCTURAL STEEL SECTIONS

EXPORTED FROM JAPAN, THE REPUBLIC OF KOREA, TAIWAN AND THE KINGDOM OF THAILAND

31 October 2014

PUBLIC RECORD

PUBLIC RECORD

1 CONTENTS

1	CONTENTS	2
	ABBREVIATIONS	3
2	SUMMARY AND FINDINGS	4
2.1	Introduction	4
2.2	Findings	4
2.3	Application of law to facts	4
3	BACKGROUND	6
3.1	Introduction	6
3.2	Preliminary Affirmative Determination.....	6
3.3	Statement of Essential Facts	7
3.4	Report 223.....	8
3.5	Relevant Legislation	8
4	THE GOODS UNDER CONSIDERATION	9
4.1	Goods description.....	9
4.2	Further information	9
4.3	Tariff classification	10
4.4	Tariff Concession Orders.....	10
4.5	Standards	11
5	DUMPING INVESTIGATION	12
5.1	Feng Hsin – Introduction.....	12
5.2	Conclusion.....	15
6	ATTACHMENTS	16

PUBLIC RECORD

ABBREVIATIONS

Abbreviation / short form	Full reference
ADN	Anti-Dumping Notice
Feng Hsin	Feng Hsin Iron and Steel Co., Ltd.
HRS	Hot rolled structural steel sections
Korea	Republic of Korea
MPa	Mega Pascals
OneSteel	OneSteel Manufacturing Pty Ltd
PAD 223	Preliminary Affirmative Determination Report No. 223
SEF 223	Statement of Essential Facts No. 223
TCO	Tariff Concession Order
TER 223	Termination Report No. 223
Thailand	Kingdom of Thailand
the Act	<i>Customs Act 1901</i>
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission

PUBLIC RECORD

2 SUMMARY AND FINDINGS

2.1 Introduction

Investigation 223 is in response to an application lodged by OneSteel Manufacturing Pty Ltd (OneSteel) in relation to the allegation that dumped hot rolled structural steel sections (HRS) exported to Australia from Japan, the Republic of Korea (Korea), Taiwan and the Kingdom of Thailand (Thailand) caused material injury to the Australian industry producing like goods.

This Termination Report No. 223 (TER 223) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) based the decision to terminate the investigation in respect to Feng Hsin Iron and Steel Co Ltd (Feng Hsin), of Taiwan.

2.2 Findings

As a result of the Anti-Dumping Commission's (the Commission's) investigation, the Commissioner is satisfied that one exporter, Feng Hsin, did not dump HRS exported to Australia during the investigation period.

Therefore, the Commissioner has decided to terminate the investigation with respect to Feng Hsin in accordance with s.269TDA(1) of the *Customs Act 1901*¹ (the Act).

As a result of these findings, on 31 October 2014, the Commissioner terminated the investigation.

A notice regarding the termination was published in *The Australian* newspaper on 31 October 2014. Anti-Dumping Notice (ADN) 2014/21 also relates to the termination.

2.3 Application of law to facts

2.3.1. Authority to make decision

Division 2 of Part XVB of the Act sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application for the publication of a dumping and/or countervailing duty notice.

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

PUBLIC RECORD

2.3.2. Application

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 to Australia from Japan, Korea, Taiwan and Thailand. The Delegate of the Commissioner was satisfied that the application was made in the prescribed manner by a person entitled to make the application.

2.3.3. Initiation of investigation

On 24 October 2013, the Delegate of the Commissioner decided not to reject the application and published a notice in *The Australian* newspaper of the initiation of this investigation. ADN No. 2013/75 provides further details of the investigation and is available on the Commission's website at www.adcommission.gov.au

2.3.4. Statement of Essential Facts

The statement of essential facts for the investigation (SEF 223) was published on 17 July 2014.

2.3.5. Submissions

The Commission did not receive any submissions in response to its proposal to terminate the dumping investigation so far as it relates to exports by Feng Hsin outlined in SEF 223.

The Commission received one submission from OneSteel relating to normal values being understated for all exporters (except in the case of JFE Bars and Shapes Corporation from Japan). This issue is discussed in section 5.1.2 of this report.

PUBLIC RECORD

3 BACKGROUND

3.1 Introduction

On 26 August 2013, OneSteel lodged an application² 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.

OneSteel provided further information and data in support of its application, the last of which was received on 1 October 2013, restarting the 20 day period for consideration of the application.

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

The applicant claimed that the industry has been injured through:

- price depression;
- price suppression;
- reduced profits and profitability;
- reduced revenues;
- reduced production capacity utilisation;
- reduced employment; and
- reduced attractiveness for reinvestment.

The Delegate of the Commissioner was satisfied that the application was made in the prescribed manner by a person entitled to make the application, that there was an Australian Industry manufacturing the like goods and that there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

Public notification of the initiation of the investigation was made on 24 October 2013 in *The Australian* newspaper and in ADN No. 2013/75 (accessible at <http://www.adcommission.gov.au/cases/EPR223.asp>).

In respect of the dumping 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.

3.2 Preliminary Affirmative Determination

The Commissioner issued a preliminary affirmative determination (PAD 223) on 14 March 2014 after being satisfied that there were sufficient grounds for

² Under s.269TB of the Act

³ s. 269T(1) refers

PUBLIC RECORD

the publication of a dumping duty notice in respect of HRS exported to Australia by certain exporters from Japan, Korea, Taiwan and Thailand.

Securities were taken in respect of any interim dumping duty that became payable in respect of HRS from Japan, Korea, Taiwan and Thailand that were entered for home consumption on or after that date, where the preliminary margin of dumping was greater than 2% with the securities being calculated ad valorem (i.e. a proportion of export price). These securities were imposed to prevent material injury occurring to the Australian injury while the investigation continued.

The Commission found that Feng Hsin was dumping at a *de minimis* margin of 0.7% and thus was not subject to securities that were imposed upon the publication of PAD 223.

3.3 Statement of Essential Facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows, place on the Public Record a statement of the facts on which the Commissioner proposes to base a recommendation in relation to the application.⁴

In formulating the SEF, the Commissioner must have regard to the application and any submissions concerning publication of the dumping and/or countervailing duty notice that are received by the Commission within 40 days after the date of initiation of the investigation. The Commission may also have regard to any other matters considered relevant.

The initiation notice advised that the SEF for the investigation would be placed on the Public Record by 11 February 2014. However, the Commissioner was satisfied that the prescribed 110 days to place the SEF on the Public Record for the investigation was likely to be insufficient and requested that the Parliamentary Secretary extend the publication timeframes on two occasions.

The Parliamentary Secretary under s.269ZHI extended the deadline for the publication of the SEF, ADN Numbers 2014/10 and 2014/40 were issued on 11 February 2014 and 12 May 2014 notifying the Parliamentary Secretary's decision to twice extend the due date of the SEF. The SEF was published on 17 July 2014.

Interested parties were invited to make submissions to the Commission in response to the SEF within 20 days of its publication on the Public Record.

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

⁴ s.269TDAA(1)

PUBLIC RECORD

3.4 Report 223

Within 155 days after initiation of an investigation, or such a longer period as the Parliamentary Secretary allows, the Commissioner must give the Parliamentary Secretary a final report in respect of the goods the subject of the application.

The Commission's report to the Parliamentary Secretary, due on 31 October 2014, will give regard to:

- the application;
- any submissions concerning the publication of the dumping duty notice to which the Commissioner has had regard for the purpose of formulating SEF 223;
- SEF 223;
- any submission in response to SEF 223 received by the Commission within 20 days after the day SEF 223 was placed on the Public Record; and
- any other matters considered relevant.⁵

3.5 Relevant Legislation

Subsection 269TDA(1) of the Act provides:

If:

(a) *application is made for a dumping duty notice; and*
(b) *in an investigation, for the purposes of the application, of an exporter to Australia of goods the subject of the application, the Commissioner is satisfied that:*

- (i) *there has been no dumping by the exporter of any of those goods; or*
- (ii) *there has been dumping by the exporter of some or all of those goods, but the dumping margin for the exporter, or each such dumping margin, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2%;*

the Commissioner must terminate the investigation so far as it relates to the exporter.

⁵s.269TEA(3)

PUBLIC RECORD

4 THE GOODS UNDER CONSIDERATION

4.1 Goods description

The goods the subject of the application (the goods) 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.

Goods excluded from this application 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).*

4.2 Further information

In support of the goods description, OneSteel provided further information to clarify the nature of the goods, as follows:

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

PUBLIC RECORD

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.

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).

4.3 Tariff classification

Goods identified as hot rolled non-alloy steel sections as set out in section 4.1 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 imports from Korea, Taiwan and Thailand attract zero duty.

Goods identified as hot rolled other alloy steel sections, as per the specified shapes and sizes as set out above, are classified to tariff subheading 7228.70.00 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 zero duty.

4.4 Tariff Concession Orders

In *Consideration Report 223*, the Commission indicated that tariff concession orders (TCO) 0513491 and 0513492 may apply to the goods under consideration that are classified to tariff subheading 7216.32.00 and 7228.70.00, respectively. The TCOs are listed chronologically below.

Tariff Ref: 7228.70.00 - Description of Goods (TCO 0513491)

I BEAMS, hot rolled, having EITHER of the following:

- a) depth NOT less than 356 mm (14 in) and a flange width NOT less than 368 mm (14.5 in);*
- b) depth NOT less than 762 mm (30 in) and a flange width NOT less than 267 mm (10.5 in)*

Tariff Ref: 7216.32.00 - Description of Goods (TCO 0513492)

I BEAMS, hot rolled, having EITHER of the following:

- a) depth NOT less than 356 mm (14 in) and a flange width NOT less than 368 mm (14.5 in);*

PUBLIC RECORD

b) depth NOT less than 762 mm (30 in) and a flange width NOT less than 267 mm (10.5 in)

After further examination of the description of the goods under consideration and relevant technical specifications, as well as the goods description contained in TCOs 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

4.5 Standards

Imported HRS is generally quoted to Australian standard AS/NZS 3679.1. If not quoted to this standard, HRS will generally be quoted to an international equivalent standard.

OneSteel's standard HRS range is manufactured to the 300MPa yield strength required by AS/NZS 3679.1, and is branded as '300PLUS'®. OneSteel confirmed that its entire HRS range is manufactured to meet or exceed the Australian standard.

OneSteel also manufactures HRS product to grade 350, which has minimum yield strength of 350MPa, for customers who require higher yield strength HRS for certain applications. OneSteel explained that 350 grade is generally only manufactured when a customer orders it and that it does not form part of its standard product range.

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

PUBLIC RECORD

5 DUMPING INVESTIGATION

5.1 Feng Hsin – Introduction

Based on the volume of Feng Hsin's exports relative to the total export volume during the investigation period, a decision was made not to conduct an on-site verification visit at Feng Hsin's premises.

Whilst a decision was made not to conduct an on-site verification visit, a detailed analysis of the exporter questionnaire provided by Feng Hsin was completed. This analysis included tests of the data for completeness, relevance and accuracy, and some benchmarking to comparable verified data.

5.1.1. Preliminary findings in the SEF

Export prices

Export prices for Feng Hsin were established under s.269TAB(1)(a), using the invoiced price by Feng Hsin less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

The Commission also made an adjustment to the export price of one specific export transaction to adjust the price for any commission paid prior to calculating the weighted average quarterly free alongside (FAS) export price.

Normal Value

Normal values were determined under s.269TAC(1) using Feng Hsin's domestic selling prices of HRS. The following adjustments were made to the normal value in accordance with s.269TAC(8) of the Act:

- Domestic packaging – A downwards adjustment for domestic packaging costs was applied to the normal value using the weighted average domestic packaging costs over the investigation period.
- Domestic inland transport – A downwards adjustment for domestic inland transport costs was applied to the normal value using domestic inland transport costs incurred.
- Domestic customer discounts – A downwards adjustment for domestic customer discounts was applied to the normal value. This was based on the weighted average discount individually applied to these customers.
- Export inland transport – An upwards adjustment for export inland transport costs was applied to the normal value using the weighted average export inland transport costs over the investigation period.

PUBLIC RECORD

- Export handling – An upwards adjustment for export handling costs was applied to the normal value using the specified export handling costs for each transaction.
- Export Packaging – An upwards adjustment for export packaging costs was applied to the normal value using the weighted average packaging costs over the investigation period.

Dumping margin

The Commission compared each export transaction FAS terms with the corresponding quarterly normal value (at FAS terms) for the corresponding model of HRS, in accordance with s.269TACB(2)(a) of the Act.

The Commission determined that exports from Feng Hsin were not dumped. The preliminary dumping margin for exports of HRS by Feng Hsin is -3.46%.

5.1.2. Submissions to the SEF

The Commission did not receive any submissions in response to its proposal to terminate the dumping investigation, so far as it relates to exports by Feng Hsin outlined in SEF 223.

The Commission did receive one submission from OneSteel⁷ asserting that the normal values of all exporters (except in the case of JFE Bars and Shapes Corporation of Japan) are understated as a result of the Commission's selection of models for normal value calculations. OneSteel allege that normal values for all exporters (except in the case of JFE Bars and Shapes Corporation of Japan) are further understated on the basis that the theoretical and actual weight adjustments have not been made.

5.1.3. The Commission's findings – like goods and models used for normal value

The Commission considers HRS sold domestically by Feng Hsin has characteristics closely resembling those of the goods exported to Australia during the investigation period. The Commission is satisfied that HRS sold by Feng Hsin on the domestic market in Taiwan are like goods in accordance with s. 269T(1).

Feng Hsin provided information that identified all the goods under consideration exported to Australia were sold as being in compliance with the SS400 standard. Sample mill test certificates provided by Feng Hsin in relation to both domestic and export sales indicated that both products were sold to conform to SS400 grade, governed by CNS 2473 (domestic) and JIS 3101 (export) standards. In all instances, the tested HRS exceeded the requirements of these standards. The Commission noted that no export sales

⁷ OneSteel submission dated 5 August 2014 (# 82 on the Public Record)

PUBLIC RECORD

of the goods under consideration to Australia were sold to conform to AS/NZS 3679.1.

For the purposes of calculating normal value, the Commission identified that all domestic sales of SS400 HRS were a comparable subset of sold goods that that were sufficiently similar to the exported goods. The Commission notes that there were no domestic sales of SM490A, B or C by the exporter.

The Commission was not satisfied that a physical difference existed between the domestically sold HRS and HRS exported to Australia to warrant a due allowance adjustment claim for physical characteristics under s.269TAC(8).

5.1.4. The Commission's findings – actual and theoretical weight

Due allowances adjustments may be made under s.269TAC(8) to allow for differences in physical characteristics, where the differences can be quantified and supported by verifiable evidence. Adjustments are only considered by the Commission where differences affect price comparability, and are made to enable fair comparison between like goods and the goods.

The Commission has re-examined the data and information as it relates to actual and theoretical weight for Feng Hsin. Verification has established that:

- Sales of HRS in both the domestic and export market is based on theoretical weight (rather than actual weight);
- Verification of actual and theoretical weights was undertaken for goods sold on both the domestic market and the Australian market and it was identified that the reported theoretical and actual weights were similar for sales to both markets, with a minor variation between the theoretical weight and the actual weight of goods sold; and
- Analysis of the results did not show any evidence to suggest that the company systemically rolled to achieve an actual weight towards the lower end of the allowable mass tolerance.

Given that both:

- the goods exported to Australia and those sold domestically, which were used to establish normal value, were manufactured to the same standard, and
- there is no evidence of significant differences between the theoretical and actual weights of HRS sold to Australia or on the Taiwanese market during the investigation period

no adjustment was deemed warranted for physical characteristics differences as per s.269TAC(8).

PUBLIC RECORD

5.2 Conclusion

The Commission is satisfied that the dumping margins have been calculated in accordance with all relevant policies and accepted practices and that the appropriate categorisation of products and comparisons has been applied.

Under s.269TDA(1) of the Act, if the Commissioner is satisfied that there has been no dumping by the exporter, the Commissioner must terminate the investigation so far as it relates to that exporter. The final dumping margin established for Feng Hsin was found to be -3.46%.⁸

Therefore, the Commissioner must terminate the dumping investigation so far as it relates to HRS exported by Feng Hsin.

⁸ Refer to Confidential Attachment 1 for Feng Hsin's dumping calculation spreadsheet.

PUBLIC RECORD

6 ATTACHMENTS	
----------------------	--

Confidential Attachment 1	Feng Hsin Iron and Steel Co Ltd – dumping calculation
---------------------------	--