



Australian Government

**Australian Customs and
Border Protection Service**

AUSTRALIAN CUSTOMS DUMPING NOTICE **NO. 2011/43**

Certain Hollow Structural Sections

**exported from the People's Republic of China, the Republic of
Korea, Malaysia, Taiwan and the Kingdom of Thailand**

Initiation of an investigation into alleged dumping and subsidisation

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has initiated an investigation, following an application lodged by OneSteel Australian Tube Mills Pty Ltd, a manufacturer of hollow structural sections (HSS) in Australia. The application requests the publication of a dumping duty notice in respect of certain HSS exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia, Taiwan and the Kingdom of Thailand (Thailand), and the publication of a countervailing duty notice in respect of certain HSS exported to Australia from China.

The application alleges that the goods have been exported to Australia at prices less than their normal value and that, in the case of China, countervailable subsidies have been received in respect of the goods. The application claims that the dumped and subsidised exports have caused material injury to the Australian industry through:

- lost sales volume;
- lost market share;
- price undercutting;
- price suppression;
- price depression;
- reduced profits and profitability;
- reduced return on investment;
- reduced attractiveness to reinvest;
- reduced employment;
- reduced plant utilisation rates; and
- reduced forward orders, cash flows and inventory levels.

The non-confidential version of the application, available on the public record to interested parties, as defined by subsection 269T(1) of the *Customs Act 1901* (the Act), contains the basis of the alleged dumping and subsidisation claims.

A notice under subsection 269TC(4) of the Act advising initiation of this investigation was published in *The Australian* newspaper on 19 September 2011.

The goods

The goods the subject of the application (the goods) are certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in

galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

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

The goods are classified to tariff subheadings 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37), 7306.61.00 (statistical codes 21, 22 and 23) and 7306.69.00 (statistical codes 26, 27 and 28) in Schedule 3 of the *Customs Tariff Act 1995*.

The rate of duty for the goods from Korea and Taiwan is 5 per cent, from China and Malaysia is 4 per cent and from Thailand is free.

Investigation process

The investigation period is 1 July 2010 to 30 June 2011. Customs and Border Protection will examine exports to Australia of the goods during that period to determine whether dumping and subsidisation has occurred. Customs and Border Protection will examine details of the Australian market from 1 July 2007 for injury analysis.

Where the Minister is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Where the Minister is satisfied, as to goods of any kind, that:

- (a) a countervailable subsidy has been received in respect of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim countervailing duties.

Lodgement of submissions

Interested parties are invited to lodge submissions concerning the publication of the dumping and countervailing duty notices sought in the application no later than the close of business on 31 October 2011, addressed to:

Director Operations 3
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Or by email:
tmops3@customs.gov.au

Interested parties wishing to participate in the investigation must ensure that submissions are lodged promptly. Interested parties should note that the CEO is not obliged to have regard to a submission received by Customs and Border Protection after the end of the period mentioned above if to do so would, in the CEO's opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

The CEO must maintain a public record of each inquiry. The public record must contain, among other things, a copy of all submissions from interested parties (letters and electronic mail are generally regarded as "submissions" if they contain information relevant to the inquiry).

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:

- 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
- satisfy the CEO 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 "In-Confidence".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above. In either case, interested parties must provide two copies of each for the public record.

Documents included in the public record are available at <http://adpr.customs.gov.au/Customs/>. Alternatively, the public record may be examined at the office address below during business hours by contacting International Trade Remedies Branch on (02) 6275 6828.

International Trade Remedies Branch
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Provisional measures

A preliminary affirmative determination may be made not earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping duty notice. In accordance with section 269TD of the Act, provisional measures, in the form of securities in respect of interim dumping duty that may become payable on the goods, may be imposed where a preliminary affirmative determination has been made.

Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable Customs and Border Protection to report to the Minister for Home Affairs (the Minister) within the legislative timeframe. A SEF will be placed on the public record by 9 January 2012, or by such later date as the Minister may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which the CEO proposes to base a recommendation to the Minister. That statement will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record.

Report to the Minister

Submissions received in response to the statement will be taken into account in completing the report and recommendation to the Minister. A recommendation to the Minister will be made in a report on or before 21 February 2012 (or such later date as the Minister may allow), unless the CEO terminates the investigation.

Review Officer

Certain parties will have the right to seek review in accordance with Division 9 of Part XVB of the Act of either a decision by the CEO to terminate the investigation, or a decision of the Minister after considering the CEO's report.

Customs and Border Protection contact

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6275 6173, fax number (02) 6275 6990 or e-mail tmops3@customs.gov.au.

Justin Wickes
A/g National Manager
International Trade Remedies Branch
CANBERRA ACT

19 September 2011