



**Customs Act 1901 - Part XVB**

**TRADE MEASURES BRANCH**

**TERMINATION OF THE INVESTIGATION**

**Certain Electric Resistance Welded Circular Hollow Sections**

**from**

**The Republic of Korea**

**August 2004**

# 1 CONTENTS

1	<b>1 CONTENTS</b>	<b>2</b>
2	<b>1 CONTENTS</b> .....	<b>2</b>
3	<b>2 ABBREVIATIONS</b> .....	<b>4</b>
4	<b>3 INTRODUCTION</b> .....	<b>5</b>
5	<b>4 GOODS UNDER CONSIDERATION</b> .....	<b>6</b>
6	4.1 STATEMENT OF ESSENTIAL FACTS.....	6
7	<b>5 LIKE GOODS</b> .....	<b>7</b>
8	5.1 STATEMENT OF ESSENTIAL FACTS.....	7
9	<b>6 AUSTRALIAN INDUSTRY</b> .....	<b>8</b>
10	6.1 STATEMENT OF ESSENTIAL FACTS.....	8
11	6.2 ONESTEEL SUBMISSION .....	8
12	6.2.1.1 OSMM transactions with OSD .....	8
13	6.2.1.2 OneSteel Distribution Imports .....	9
14	<b>7 AUSTRALIAN MARKET</b> .....	<b>10</b>
15	7.1 STATEMENT OF ESSENTIAL FACTS.....	10
16	<b>8 MANUFACTURERS, EXPORTERS AND IMPORTERS</b> .....	<b>11</b>
17	8.1 STATEMENT OF ESSENTIAL FACTS.....	11
18	<b>9 EXPORT PRICE</b> .....	<b>12</b>
19	9.1 SEAH .....	12
20	9.1.1 <i>Statement of Essential Facts</i> .....	12
21	9.1.2 <i>OneSteel Submission</i> .....	12
22	9.2 HUSTEEL .....	13
23	9.2.1 <i>Statement of Essential Facts</i> .....	13
24	9.3 HYSCO.....	13
25	9.3.1 <i>Statement of Essential Facts</i> .....	13
26	9.4 LGI.....	13
27	9.4.1 <i>Statement of Essential Facts</i> .....	13
28	9.5 DAEYANG.....	13
29	9.5.1 <i>Statement of Essential Facts</i> .....	13
30	9.5.2 <i>OneSteel Submission</i> .....	14
31	<b>10 NORMAL VALUE</b> .....	<b>15</b>
32	10.1 SEAH .....	15
33	10.1.1 <i>Statement of Essential Facts</i> .....	15
34	10.1.2 <i>OneSteel Submission</i> .....	15
35	10.1.2.1 Price Data .....	15
36	10.1.2.2 Hot Rolled Coil.....	15
37	10.1.2.3 Depreciation Rates.....	16
38	10.1.2.4 Corporate Overheads and Production Costs.....	16

1	10.1.2.5	Conditions of sale.....	17
2	10.2	HUSTEEL.....	17
3	10.2.1	Statement of Essential Facts.....	17
4	10.2.2	OneSteel Submission.....	17
5	10.2.2.1	Price Data.....	17
6	10.2.2.2	Hot Rolled Coil.....	17
7	10.2.3	Husteel Submission.....	18
8	10.3	HYSKO.....	18
9	10.3.1	Statement of Essential Facts.....	18
10	10.3.2	OneSteel Submission.....	18
11	10.3.2.1	Price Data.....	18
12	10.3.2.2	Hot Rolled Coil.....	18
13	10.3.2.3	Other cost elements and adjustments.....	19
14	10.4	LGI.....	19
15	10.4.1	Statement of Essential Facts.....	19
16	10.5	DAEYANG.....	19
17	10.5.1	Statement of Essential Facts.....	19
18	<b>11</b>	<b>DUMPING MARGINS.....</b>	<b>20</b>
19	11.1	STATEMENT OF ESSENTIAL FACTS.....	20
20	<b>12</b>	<b>CONDITION OF THE AUSTRALIAN INDUSTRY.....</b>	<b>21</b>
21	12.1	STATEMENT OF ESSENTIAL FACTS.....	21
22	12.2	ONESTEEL'S SUBMISSION.....	22
23	12.2.1.1	Approach – One good.....	22
24	12.2.1.2	Approach – Year-on-Year assessment.....	22
25	12.2.1.3	Price Depression.....	22
26	12.2.1.4	Price Suppression.....	23
27	12.2.1.5	Volume.....	23
28	12.2.1.6	Market Share.....	23
29	12.2.1.7	Economic Condition of the Industry – Profit.....	24
30	<b>13</b>	<b>CAUSAL LINK.....</b>	<b>25</b>
31	13.1	STATEMENT OF ESSENTIAL FACTS.....	25
32	13.2	ONESTEEL SUBMISSION.....	25
33	<b>14</b>	<b>TERMINATION.....</b>	<b>27</b>
34			

## 2 ABBREVIATIONS

API 5L	American Petroleum Institute standard 5L
Capital	Capital Steel & Pipe Pty Ltd
CFR	cost and freight
Daeyang	Daeyang P & T
ERW CHS	electric resistance welded circular hollow sections
FSC	Financial Supervisory Commission
GUC	goods under consideration
HRC	hot rolled coil
Husteel	Husteel Co Ltd
Hysco	Hyundai Hysco Co Ltd
Korea	The Republic of Korea
LGI	LG International Corporation
Minister	Minister responsible for Customs
OneSteel	OneSteel Trading Pty Ltd
NERA	National Economic Research Associates
OSD	OneSteel Distribution
OSMM	OneSteel Market Mills
SeAH	SeAH Steel Co Ltd
SG&A	selling general and administrative (expenses)
the Act	the Customs Act 1901
the goods	the goods the subject of the application

### 3 INTRODUCTION

On 5 January 2004, OneSteel Trading Pty Ltd (OneSteel), a wholly owned subsidiary of OneSteel Limited, lodged an application on behalf of the Australian industry under s. 269TB(1) of the *Customs Act 1901* (the Act) requesting that the Minister responsible for Customs (the Minister) publish a dumping duty notice in respect of certain electric resistance welded circular hollow sections of iron or steel (ERW CHS) exported to Australia from the Republic of Korea (Korea).

An investigation was initiated on 5 March 2004 and was also publicly notified on that day (refer to Australian Customs Dumping Notice No 2004/09).

The public notification advised that Customs would examine exports to Australia of ERW CHS during the period of 1 October 2002 to 31 December 2003 (the investigation period) to determine whether dumping has occurred and that Customs would examine details of the Australian market from January 2001 to December 2003 (the injury period) for injury analysis.

In the course of any investigation Customs is required to place on the public record, within 110 days of initiation, a statement of the essential facts (SEF) on which it proposes to base its recommendations. The initiation notice advised that the SEF would be placed on the public record by 23 June 2004. Customs was unable to meet the deadline for publication of the SEF. The Minister, under s. 269ZHI, extended the deadline to 7 July 2004. Customs placed a copy of the finalised SEF on the public file on 7 July 2004.

The SEF was published as Trade Measures Branch Statement of Essential Facts No 80. This report and SEF No 80 should be read in conjunction.

Interested parties were given until 27 July 2004 to respond to the SEF. Customs received two responses. One response was received from the applicant (which included an economist's opinion in respect of the methodology employed by Customs in establishing the normal value of certain like goods in Korea) and another from a consultant acting on behalf of Husteel Co Ltd.

All Customs' dumping notices and published reports are available on the Internet at <http://www.customs.gov.au> (follow prompts from "Anti-Dumping").

## 4 GOODS UNDER CONSIDERATION

### 4.1 STATEMENT OF ESSENTIAL FACTS

The Australian industry's description of the goods under consideration (GUC) is:

electric resistance welded (ERW) circular hollow sections (CHS) of iron or steel coated (excluding concrete-weight coating) or uncoated with outside diameters of 168mm up to and including 457mm and wall thicknesses of 4.8mm up to and including 12.7mm.

The description of the goods covered all ERW carbon steel pipe and included, but was not confined to, ERW CHS that meets all grades of the American Petroleum Institute standard 5L (API 5L) as well as AS1163, AS 1396, KDS 3566, KSF 4602, KSD 3507 and KSD 3562 and their approximate international equivalents.

The Australian industry claimed that the range of like products covered by the description of the goods falls into two categories: low-grade and high-grade. ERW CHS complying with specifications including, but not limited to, AS 1396, AS 1163, API 5L Grade B and API 5L X42 and their international equivalents, were described as low-grade, while grades from API5L X46 to API5L X80 were described as high-grade.

ERW CHS is used in a range of applications including cross-country long distance gas pipelines, short-distance gas pipelines, slurry pipelines, structural fabrication, process pipe work, pressure fire hydrant systems, piling applications and bore casing.

The GUC are properly classified under subheadings 7305.12.00, 7305.20.00, 7305.31.00, 7306.10.00, 7306.20.00 and 7306.30.00 of the *Customs Tariff Act 1995*. The applicable rate of duty on ERW CHS imported from Korea is 5%.

Customs accepted the applicant's identification and description of the goods as one good but noted that there appears to be two distinct markets into which high-grade and low-grade pipe were sold, which becomes relevant when considering material injury.

## 5 LIKE GOODS

### 5.1 STATEMENT OF ESSENTIAL FACTS

Customs was satisfied that ERW CHS manufactured by OneSteel Market Mills<sup>1</sup> (OSMM) are like goods to the GUC, pursuant to s. 269T(1) of Act.

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<sup>1</sup> OneSteel Market Mills (OSMM) (comprising OneSteel Manufacturing Pty Ltd, the applicant and others) – is the supplier of a comprehensive range of steel products including ERW CHS, which is manufactured at the OneSteel Kembla Grange, NSW facility.

## 6 AUSTRALIAN INDUSTRY

### 6.1 STATEMENT OF ESSENTIAL FACTS

Customs formed the view that the Australian industry in the application was properly constituted by both OSMM and OneSteel Distribution<sup>2</sup> (OSD).

Customs visited OSMM's production facility to verify information contained in the application and to observe the production process. Customs concluded that OSMM undertakes a substantial process of manufacture in producing ERW CHS and that, pursuant to s. 269T(2), (3) and (4) of the Act, the ERW CHS was manufactured in Australia and that OSMM and OSD constitute the industry producing like goods.

### 6.2 ONESTEEL SUBMISSION

#### 6.2.1.1 OSMM transactions with OSD

OneSteel submitted that:

since Customs used the transactions between OSMM and OSD to find indications of injury that this is evidence that OSD is not part of the industry producing like goods in Australia and that the price between the two is at arm's length, and

having insisted upon the supply and verification of data from OSD on sales and profits over the investigation period it appears Customs have largely disregarded the information in their assessment of injury.

#### Customs' Response

It is Customs' view that the transactions between OSMM and OSD are not true legal sales due to the common ownership of the respective business divisions. Customs considers that the Australian industry producing like goods is constituted by OSMM and OSD. All data supplied by OneSteel was used in examining the economic condition of the Australian industry. In particular the analysis of the OSD data reassured Customs that the use of OSMM data for injury analysis and establishing causation was not inappropriate.

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<sup>2</sup> OneSteel Distribution (OSD) (comprising the applicant and others) – is a distribution arm of OneSteel Limited supplying a range of products to primarily domestic customers of products manufactured by OSMM as well as others.

1 6.2.1.2 OneSteel Distribution Imports

2 OneSteel submitted that:

3 in SEF 80 Customs created the impression that OneSteel Distribution  
4 imports were a factor in the injury suffered by OSMM and that the  
5 language used overstated the impact of OSD imports and purchases of  
6 imported product.

7 Customs' Response

8 Customs considers the segregation of the purchases of imported product by  
9 OSD either directly or indirectly (through another Australian importer) as  
10 appropriate as they cannot be considered injurious to the Australian industry.

11 The imports by the industry itself (in this case OSMM and OSD) have  
12 therefore been aggregated with its locally produced sales.

13 Customs does, however, understand the need for clarification of the size of  
14 these purchases. While the volume is not small enough to be disregarded in  
15 Customs' analysis, it is not considered large enough to have a material  
16 impact.

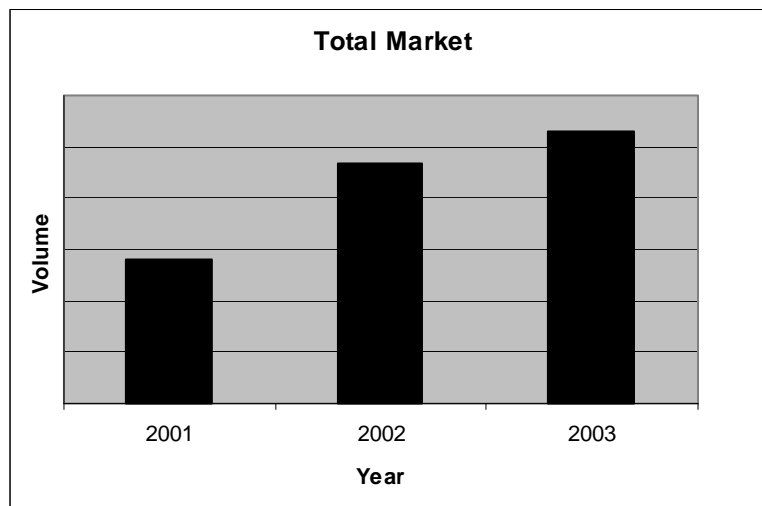
## 7 AUSTRALIAN MARKET

### 7.1 STATEMENT OF ESSENTIAL FACTS

Customs estimated the market size for ERW CHS using imports from Customs' commercial database and verified sales data obtained from the Australian industry and importers of ERW CHS from Korea and other countries.

Customs noted that the Australian industry and Korea both held a significant proportion of the market.

Customs also noted that the size of the total domestic market increased significantly over the period of 2001 to 2003, as demonstrated in the graph below:



## 8 MANUFACTURERS, EXPORTERS AND IMPORTERS

### 8.1 STATEMENT OF ESSENTIAL FACTS

Customs' dumping investigation included the three manufacturers, Husteel Co Ltd (Husteel), Hyundai Hysco Co Ltd (Hysco) and SeAH Steel Co. Ltd (SeAH), and the two trading companies, Daeyang P & T (Daeyang) and LG International Corporation (LGI). Exports by these five entities represent 99 percent of exports to Australia from Korea during the investigation period.

Only SeAH exported both low and high-grade ERW CHS to Australia. The other exporters sold only low-grade ERW CHS to Australia over the investigation period.

The following table sets out the participation of each of the parties.

Exporter/supplier/manufacture r	Response Received	Visited
SeAH Steel Co. Ltd	Yes	Yes
LG International Corporation	Yes	Yes
Husteel Co Ltd	Yes	Yes
Hyundai Hysco Co Ltd	Yes	Yes
Daeyang P & T	No	No

Customs also visited the following importers of ERW CHS:

Amtrade International Pty Ltd

Capital Steel Pty Ltd (Capital)

East Coast Pipe Supplies

Metalcorp Steel Pty Ltd

Spie Capag-Lucas Joint Venture

Stemcor (A/asia) Pty Ltd

Van Leeuwen Pipe & Tube Pty Ltd

Orrcon Pty Ltd

GP Marketing Pty Ltd

CMC (Australia) Pty Ltd

Non-confidential versions of Customs' report relating to the visits to these respective companies were placed on the public record.

## 9 EXPORT PRICE

### 9.1 SEAH

#### 9.1.1 Statement of Essential Facts

Customs calculated export prices for SeAH variously depending on the circumstances relating to the respective export transaction as follows:

under s. 269TAB(1)(c) of the Act using the invoiced FOB prices from SeAH to a Korean trader and an Australian trader, and

under s. 269TAB(1)(a) of the Act using SeAH's invoiced FOB prices to an Australian trader/distributor.

#### 9.1.2 OneSteel Submission

OneSteel submitted that:

for high-grade ERW CHS, Customs' ability to calculate the export price under s269TAB(1)(c) of the Act is questionable as it was not able to verify substantive aspects in relation to the chain of transactions; and

for low-grade ERW CHS, Customs should not use the invoice price from SeAH to the Australian trader to establish the export price for low grade ERW CHS because it did not rigorously investigate the nature of the relationship between SeAH, Capital and Capital's Korean trading/shipping agent. Customs should be questioning whether these transactions are at arms length or can be considered to be in the normal course of trade (as such, Customs should not use the invoice price from SeAH to Capital Steel for the establishment of the export price for low-grade).

#### Customs' Response

For high-grade, Customs considers the first arms length transaction, the sale between the producer/exporter SeAH and LGI, is the appropriate level at which to establish export price. Normal value was also established at this same level. The circumstances of the sales further down the supply chain are therefore not directly relevant for the calculation of FOB export price from SeAH.

For low-grade, the Australian trader provided a substantial volume of data but declined to provide Customs with its financial statements on the basis that it is a private company and the information contained in the statements was commercially sensitive.

1 Customs was therefore unable to complete the sales route exercise (as a cost  
2 for selling, general and administrative (SG&A) expenses could not be  
3 determined) and so was also unable to conclude if the sales were profitable.

4 This was not an isolated instance during the course of this investigation and  
5 Customs was disappointed with the approaches taken by a number of  
6 importers in this regard.

7 In this instance however, subsequent to the visit report being finalised, advice  
8 was received from Capital Steel's accountant regarding the company's SG&A  
9 and profitability. Further analysis was conducted on the sales data using  
10 information obtained from other importers visited during the investigation.

11 With this extra information taken into account as well as the information  
12 verified at the visit to the exporter Customs remains satisfied that the export  
13 price was appropriately calculated.

## 14 **9.2 HUSTEEL**

### 15 **9.2.1 Statement of Essential Facts**

16 Customs concluded that export prices for ERW CHS exported by Husteel  
17 should be established under s. 269TAB(1)(a) of the Act, using the invoiced  
18 prices from Husteel to its Australian customers.

## 19 **9.3 HYSCO**

### 20 **9.3.1 Statement of Essential Facts**

21 Customs calculated export prices for ERW CHS exported by Hysco under  
22 s. 269TAB(1)(a) of the Act, using the invoiced FOB prices from Hysco to its  
23 Australian customer.

## 24 **9.4 LGI**

### 25 **9.4.1 Statement of Essential Facts**

26 Customs calculated export prices for LGI under s. 269TAB(1)(a) of the Act,  
27 using the invoiced FIS prices from LGI to its customer less any charges in  
28 respect of transport or any other matters arising after exportation.

## 29 **9.5 DAEYANG**

### 30 **9.5.1 Statement of Essential Facts**

31 Customs concluded that export prices should be determined under  
32 s.269TAB(3) of the Act, having regard to all relevant information.

1 **9.5.2 OneSteel Submission**

2 OneSteel submitted that:

3           Customs only deducted ocean freight from the CFR price in their  
4           calculation but should have deducted other costs such as  
5           insurances, financing costs and charges.

6 Customs' Response

7 Customs is satisfied that that the export price calculations were appropriate in  
8 adjusting a CFR price to the FOB level.

## 10 NORMAL VALUE

### 10.1 SEAH

#### 10.1.1 Statement of Essential Facts

Customs established a normal value for ERW CHS using a weighted average of the normal values calculated for two models of low-grade pipe types and for one high-grade model.

Customs established a normal value for one low-grade pipe type under s. 269TAC(1) of the Act based on the weighted average price paid for like goods sold by SeAH in the ordinary course of trade for home consumption in Korea in sales that were arms length transactions, with adjustments to domestic selling prices in accordance with s. 269TAC(8) of the Act.

Customs established normal values for high-grade and for the second low-grade pipe type under s. 269TAC(2)(c) of the Act using the cost of manufacture of the exported goods and SG&A and profit from domestic sales of low-grade pipe. Customs considered that those constructed prices required adjustment in terms of s. 269TAC(9) of the Act to ensure fair comparison to the export prices.

#### 10.1.2 OneSteel Submission

##### 10.1.2.1 Price Data

OneSteel submitted that “Customs need to be satisfied that where they have developed normal values for low-grade product based on domestic sales prices they have included only sales for API 5LB/X42 grade material.”<sup>3</sup>

##### Customs’ Response

Customs can confirm that the domestic sales used for the calculation of a normal value for low grade ERW CHS were for identical products to those exported to Australia.

##### 10.1.2.2 Hot Rolled Coil

OneSteel submitted that Customs should compare the SeAH average HRC purchase cost data provided to the Korean Financial Supervisory

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<sup>3</sup> OneSteel submission, page 8.

1 Commission<sup>4</sup> (FSC) with that verified, particularly in relation to the calculation  
2 of a constructed normal value for high-grade ERW CHS.

### 3 Customs' Response

4 Customs can confirm that during the exporter visit, purchases of HRC were  
5 reviewed and verified and the investigating team identified no inconsistencies  
6 between the cost of HRC for production for domestic sales and third country  
7 sales and that for export sales to Australia.

8 Customs can also confirm that the review of the HRC cost for export sales to  
9 Australia, in light of the average HRC cost reported to the FSC provided in  
10 OneSteel's submission, has raised no issues of concern.

### 11 10.1.2.3 Depreciation Rates

12 OneSteel submitted that the rates described in the FSC were contrary to  
13 those reported in SeAH's Exporter questionnaire.

### 14 Customs' Response

15 As the data collected and verified from the exporter agreed to depreciation  
16 schedules and audited financial statements obtained from the company,  
17 Customs remains satisfied that the verified data collected during the visit to  
18 SeAH is reliable.

### 19 10.1.2.4 Corporate Overheads and Production Costs

20 OneSteel submitted that, on the basis of information obtained from the FSC,  
21 Customs may have underestimated the portion of corporate overheads and  
22 production costs that should have been allocated to the cost to make and sell  
23 (CTMS) of the GUC when constructing the normal value for high-grade  
24 product.

### 25 Customs' Response

26 In calculating the CTMS, Customs can confirm that an overall non-operating  
27 expense and a separate overall SG&A cost were used, both of which were  
28 based on expenses that could be linked directly to the audited financial  
29 statements. Customs is satisfied that the approach used for the allocation  
30 SG&A to exports is appropriate.

31 As a result of verification during the visit, Customs is also satisfied that  
32 production costs were allocated in accordance with SeAH's claimed allocation  
33 methods.

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<sup>4</sup> The Financial Supervisory Commission (FSC) is the Korean Government's financial regulatory body, which conducts financial supervision and regulation across all financial sectors including banking, insurance and securities.

#### 1 10.1.2.5 Conditions of sale

2 Onesteel submitted that Customs' calculation of normal value for high-grade  
3 product in the domestic market using the SG&A expenses and profit from low-  
4 grade domestic sales was inappropriate considering the substantial risks and  
5 costs associated with supply of high-grade pipe to major projects. In support  
6 of this proposition OneSteel commissioned National Economic Research  
7 Associates (NERA) to provide an independent appraisal and report outlining  
8 how these risks and costs could be quantified. The results of that appraisal  
9 were also provided to Customs.

#### 10 Customs' Response

11 The SG&A and profit used for the high-grade normal value was calculated in  
12 accordance with the provisions of s. 269TAC and Customs Regulations. In  
13 making an adjustment for costs relating to claims that applied to export sales  
14 of high grade ERW CHS into the Australian project market that did not apply  
15 to domestic sales of low-grade product, Customs made allowance for the  
16 additional risks and costs involved in the sales of high-grade. After review of  
17 OneSteel's submission and the NERA report, Customs remains satisfied that  
18 its approach to establishing a normal value for high grade ERW CHS was  
19 appropriate.

### 20 **10.2 HUSTEEL**

#### 21 **10.2.1 Statement of Essential Facts**

22 Customs established a normal value for ERW CHS exported by Husteel under  
23 s. 269TAC(1) of the Act on the basis of the weighted average price paid for  
24 like goods sold by Husteel in the ordinary course of trade for consumption in  
25 Korea in sales that were arms length transactions, with adjustments to  
26 domestic selling prices in accordance with s. 269TAC(8) of the Act.

#### 27 **10.2.2 OneSteel Submission**

##### 28 10.2.2.1 Price Data

29 OneSteel submitted that Customs must satisfy itself that the domestic sales  
30 used to establish normal values are for goods comparable to Husteel's export  
31 sales to Australia.

#### 32 Customs' Response

33 Customs can confirm that the domestic sales used for the calculation of  
34 normal values were for identical products to those exported to Australia.

##### 35 10.2.2.2 Hot Rolled Coil

36 OneSteel submitted that, as Husteel's HRC purchase price would be similar to  
37 that of SeAH, Customs should compare the SeAH average HRC purchase

1 cost data provided to the Korean FSC with that verified during Customs' visit  
2 to Husteel.

### 3 Customs' Response

4 Customs can confirm that the review of the HRC cost for export sales to  
5 Australia, in light of the average HRC cost report to the FSC, has raised no  
6 issues of concern. In any case, Customs notes the lower probative value that  
7 such evidence (SeAH's FSC data) would provide in comparison to the verified  
8 data obtained from Husteel.

### 9 **10.2.3 Husteel Submission**

10 Husteel submitted that an incorrect value for inland freight was applied when  
11 Customs calculated the normal value but made no further submission in this  
12 regard in response to the SEF.

### 13 Customs' Response

14 In the absence of any further information Customs remains satisfied as to the  
15 appropriateness of the adjustment in respect of inland freight.

## 16 **10.3 HYSCO**

### 17 **10.3.1 Statement of Essential Facts**

18 Customs established a normal value for ERW CHS exported by Hysco under  
19 s. 269TAC(1) of the Act on the basis of the weighted average price paid for  
20 like goods sold by Hysco in the ordinary course of trade for consumption in  
21 Korea in sales that were arms length transactions, with adjustments to  
22 domestic selling prices in accordance with s. 269TAC(8) of the Act.

### 23 **10.3.2 OneSteel Submission**

#### 24 10.3.2.1 Price Data

25 OneSteel submitted that Customs must satisfy itself that the domestic sales  
26 they have used to establish normal values are comparable goods to Hysco's  
27 export sales to Australia.

### 28 Customs' Response

29 Customs can confirm that the domestic sales used for the calculation of  
30 normal values were identical products to those exported to Australia.

#### 31 10.3.2.2 Hot Rolled Coil

32 OneSteel submitted that, as Hysco's HRC purchase price would be similar to  
33 that of SeAH, Customs should compare the SeAH average HRC purchase

1 cost data provided to the Korean FSC with that verified from Customs' visit to  
2 Hysco.

### 3 Customs' Response

4 Customs can confirm that the review of the HRC cost for export sales to  
5 Australia, in light of the average HRC cost report to the FSC, has raised no  
6 issues of concern. In any case, Customs notes the lower probative value that  
7 such evidence (SeAH's FSC data) would provide in comparison to the verified  
8 data obtained from Hysco.

#### 9 10.3.2.3 Other cost elements and adjustments

10 OneSteel submitted that Customs must be satisfied that:

11 the data verified is in accordance with Hysco's depreciation  
12 schedule as detailed in their submission;

13 Hysco provided Customs with actual cost data rather than 'model'  
14 costs;

15 indirect costs incurred by Hysco have been appropriately  
16 apportioned to the production costs of line-pipe; and

17 it reasonable to make an adjustment to account for bad debts  
18 relating to domestic sales.

### 19 Customs' Response

20 Customs remains satisfied that the verified data obtained from the visit to  
21 Hysco was reliable.

## 22 **10.4 LGI**

### 23 **10.4.1 Statement of Essential Facts**

24 Customs established a normal value for ERW CHS exported by LGI under  
25 s. 269TAC(1) of the Act using domestic sales data from other sellers of like  
26 goods in the Korean market, with adjustments to those prices in accordance  
27 with s. 269TAC(8) of the Act.

## 28 **10.5 DAEYANG**

### 29 **10.5.1 Statement of Essential Facts**

30 Customs proposed that the Minister determine a normal value for ERW CHS  
31 under s. 269TAC(6) of the Act using all relevant information.

## 11 DUMPING MARGINS

### 11.1 STATEMENT OF ESSENTIAL FACTS

In accordance with s. 269TACB of the Act Customs calculated a weighted average of export prices and normal values for each exporter. Dumping margins calculated by Customs are summarised in the following table. Under s. 269TDA(1) of the Act, a negligible dumping margin includes where the margin of dumping is less than 2 percent.

Exporter	Dumping margin range
Husteel	7%
SeAH	Negligible
Hysco	Undumped
LGI	Negligible
Daeyang	2 to 10%

## 12 CONDITION OF THE AUSTRALIAN INDUSTRY

### 12.1 STATEMENT OF ESSENTIAL FACTS

Customs primarily used OSMM data to assess injury claims because OSD data could not be fully integrated with OSMM data.

In respect of the condition of the Australian industry producing like goods to the goods under consideration Customs concluded that:

some price undercutting by dumped and undumped goods was evident;

price depression was evident;

price suppression was evident;

there was no loss of sales volume evident; and

the following movements in market share were evident.

TOTAL	Change in 2002 from 2001	Change in 2003 from 2002	Total Change
OSMM share of market (production and imports)	-37%	+18%	-19%
OSD imports share of market (undumped)	-1%	+2%	+1%
Market share of dumped goods from Korea	+1%	+3%	+4%
Market share of non-injurious goods from Korea	+20%	-17%	+3%
Market share of goods from other countries	+17%	-6%	+11%

Customs further concluded that:

there was a reduction in profit of 3%;

profitability for both grades decreased over the injury period in the range of 1 to 5 percentage points;

there has been a decrease in the level of assets over the injury period, however this was a result of a transfer to head office;

there had been a considerable increase in capital investment over the injury period;

Customs noted an associated increase in depreciation, however this was offset by the reduction of other costs over the injury period;

the expenditure on research and development had not changed significantly over the injury period;

'sales' revenue had increased over the injury period;

capacity utilisation had increased over the injury period;

1 employment levels have increased over the injury period;  
2 inventory levels have remained fairly constant over the injury period;  
3 and  
4 expenditure on salaries and wages has increased over the injury  
5 period.

6 Customs noted that injury was sustained primarily in respect of high-grade  
7 sales. The only evidence of injury in low-grade sales was in the forms of  
8 'price' undercutting and loss of market share. Customs also noted that the  
9 findings were consistent with what would be expected in an expanding  
10 market.

## 11 **12.2 ONESTEEL'S SUBMISSION**

### 12 **12.2.1.1 Approach – One good**

13 OneSteel submitted that as Customs conducted the investigation on the basis  
14 that the GUC were one good it was a flawed analysis to continually refer to  
15 conclusions drawn by grade (low and high).

#### 16 Customs' Response

17 Customs conducted the injury analysis on an overall basis and on a grade  
18 basis (high and low-grade). Customs must conduct its analyses on whatever  
19 basis is appropriate to the circumstances. In this instance the separation of  
20 the markets was the determinative circumstance for also undertaking an  
21 analysis on a grade basis.

### 22 **12.2.1.2 Approach – Year-on-Year assessment**

23 OneSteel submitted that a proper analysis required a year-on-year  
24 assessment to allow Customs to form an opinion on trends over the injury  
25 analysis period.

#### 26 Customs' Response

27 While Customs acknowledges that a year-on-year analysis may demonstrate  
28 other injury indicators, in particular in the period of 2001 to 2002, it would  
29 appear that this injury is evident in the subsequent period (2003), which is the  
30 period in which dumping has been established.

### 31 **12.2.1.3 Price Depression**

32 OneSteel submitted that Customs incorrectly concluded that there was no  
33 price depression despite being provided with details of specific examples of  
34 OneSteel's price being depressed for sales of low-grade product.

1 Customs' Response

2 While there may have been instances of price depression, Customs considers  
3 it appropriate to examine the overall impact of all sales, indicated by the  
4 average, as this represents the goods the subject of the application.

5 12.2.1.4 Price Suppression

6 OneSteel submitted that Customs ignored significant increases in HRC in  
7 2003 because these were balanced by substantial improvements in  
8 OneSteel's conversion costs. OneSteel further submitted that the effect of  
9 this was that OneSteel received no benefit from a substantial reduction in its  
10 conversion costs during this period due to the price suppressing effects of  
11 Korean imports.

12 Customs' Response

13 Customs acknowledges that the cost of the main raw material (hot rolled coil)  
14 increased over the injury period and that this increase has been offset by  
15 decreases in other costs. However in assessing injury to the Australian  
16 industry, Customs analyses total costs, rather than selected individual costs,  
17 because Customs considers the increases and decreases in individual costs  
18 over time to be part of the business cycle of a competitive industry competing  
19 in a global market.

20 12.2.1.5 Volume

21 OneSteel submitted that Customs appear to have confused movement in  
22 sales volume with industry lost sales.

23 Customs' Response

24 The purpose of the sales volume analysis is to assess the movement in actual  
25 sales volume over time. The loss in potential sales volume is essentially  
26 assessed in the analysis of movements in market share.

27 12.2.1.6 Market Share

28 OneSteel submitted that as imports with negligible dumping margins should  
29 be categorised as dumped, Customs' analysis of market share is flawed.

30 Customs' Response

31 In the market share analysis, Customs has separated dumped imports from  
32 undumped imports (being those with a dumping margin of less than 2%).

33 Customs considers that imports with a dumping margin of less than 2%  
34 should not be aggregated with imports having a dumping margin higher than  
35 2%. Pursuant to s. 269TDA(1), the CEO of Customs is required to terminate  
36 the investigation as it relates to an exporter if he is satisfied that there has  
37 been no dumping by that exporter or the dumping margin for that exporter is

1 less than 2% of the export price. Material injury caused by dumping therefore  
2 cannot be attributed to any exports having negative or negligible dumping  
3 margins.

#### 4 12.2.1.7 Economic Condition of the Industry – Profit

5 OneSteel submitted that Customs:

6 has failed to acknowledge the substantial contribution to 2003  
7 profits brought about by reductions on OneSteel's conversion costs;

8 needs to properly consider the non-existence of growth in OneSteel  
9 in a market that has grown substantially; and

10 has ignored the impact of lost profits from loss of potential project  
11 volumes and from the diminished market share that resulted from  
12 dumped product undercutting the market price.

#### 13 Customs' Response

14 Customs acknowledges that there may have been an increase in profits if  
15 OneSteel had maintained its market share. However, the issue in this  
16 circumstance is not the magnitude of injury, but rather the linking of the injury  
17 to dumping.

## 13 CAUSAL LINK

### 13.1 STATEMENT OF ESSENTIAL FACTS

Customs analysis revealed that the indicators of injury differed in respect of low and high-grade 'sales'. The following table summarises these findings:

	Low-grade	High-grade	Overall
Price depression	No	Yes	Yes
Price suppression	No	Yes	Yes
Price undercutting by dumped imports	Yes	N/A	Yes
Price undercutting by un-dumped imports	Yes	Yes	Yes
Loss of sales Volume	Yes	No	No
Reduced profits	No	Yes	Yes
Reduced profitability	No	Yes	Yes
Market Share	Yes	Yes	Yes

Customs considers that the injury the industry has experienced on all ERW CHS, in the forms of price depression, price suppression, and reduced profits and profitability, cannot be attributed to the dumped goods as this injury was experienced in the high-grade market sector while the dumping occurred only in the low-grade market sector.

Customs considers that some of OneSteel's loss of market share can be attributed to the dumped goods.

However, after consideration of the volume of imports from undumped Korean sources and other countries (91% of all imports), that have also undercut the selling and transfer prices of the Australian industry, and the fact that their share of the Australian market during the investigation period (23%) was significantly higher than that of the dumped goods (3%) and considering the other causal factors (as discussed in the SEF) Customs concluded that the injury suffered by the Australian industry in the form of loss of market share as a result of the importation of dumped low-grade ERW CHS from Korea could not properly be categorised as material.

Customs concluded that the injury, if any, to the Australian Industry caused by dumping was negligible.

### 13.2 ONESTEEL SUBMISSION

OneSteel submitted that Customs incorrectly concluded that injury in low-grade does not affect injury in high-grade because lost sales in either high-grade or low-grade critically affects the operating efficiencies, unit costs of production and unit overhead costs for the other model.

1 Customs' Response

2 Customs acknowledges that the loss of sales volume of one product may  
3 impact to a certain extent on the level of costs allocated to another product.  
4 However this claim does not appear to be supported by the data presented by  
5 OneSteel, which indicates that the CTMS for high-grade product decreased  
6 over the injury period.

**14 TERMINATION**

1

2 After considering responses to the SEF and other relevant matters, Customs  
3 has concluded that, in accordance with s. 269TDA(13) of the Act, the CEO  
4 must terminate the investigation into the dumping of ERW CHS from Korea,  
5 as

6 Customs found that:

7           some ERW CHS exported from Korea was sold to Australia at  
8           dumped prices; but that  
9           the ERW CHS exported from Korea sold at dumped prices caused  
10          negligible injury to the Australian industry.