



Australian Government
Australian Customs Service

TRADE MEASURES BRANCH
CUSTOMS ACT 1901 - PART XVB

**CERTAIN HOT ROLLED STRUCTURAL STEEL
SECTIONS FROM THE REPUBLIC OF KOREA**

REVIEW OF ANTI-DUMPING MEASURES

STATEMENT OF ESSENTIAL FACTS No. 79

22 June 2004

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2 ABBREVIATIONS

ACDN	Australian Customs Dumping Notice
CTMS	Cost to make and sell
Customs	Australian Customs Service
FOB	Free-on-board
H-beams	Universal beams and columns
INI	INI Steel Company Ltd
Korea	Republic of Korea
Minister	Minister responsible for Customs
Mpa	Mega Pascal
NIP	Non-injurious price
OneSteel	OneSteel Manufacturing Pty Ltd
SEF	Statement of essential facts
Stemcor	Stemcor Australia Pty Ltd
Structural steel	Certain hot rolled structural steel sections defined in section 4.3 of this statement
USP	Unsuppressed selling price
WTO	World Trade Organisation

3 SUMMARY

INI Steel Company Ltd (INI), an exporter of certain hot rolled structural steel sections (structural steel) from the Republic of South Korea (Korea) to Australia, made application to the Australian Customs Service (Customs) for a review of anti-dumping measures.

On 4 March 2004, Customs initiated a review of the variable factors (normal values, export prices and non-injurious prices) relevant to the anti-dumping measures applying to structural steel exported from Korea by INI. The review period was 1 January 2003 to 31 December 2003.

This statement of essential facts (SEF) sets out the facts that Customs proposes as the basis of its recommendations to the Minister for Justice and Customs (Minister). Interested parties have an opportunity to respond to this SEF before Customs makes its recommendations.

Customs found that the variable factors relevant to the anti-dumping measures applying to exports of structural steel by INI have changed. Customs found that export prices and normal values have increased, the former having increased by a substantially greater proportion. This resulted in a finding that weighted average export price exceeded weighted average normal value for the review period.

Customs also found that non-injurious prices (NIPs) had increased, and the level of the NIP is higher than both the normal value and export price.

Customs proposes to recommend to the Minister that the levels of the ascertained export prices, normal values and non-injurious prices be revised to reflect the findings of this review.

4 INTRODUCTION

4.1 Background

On 29 October 2001, OneSteel Manufacturing Pty Ltd (OneSteel) lodged an application with Customs requesting that anti-dumping measures be imposed on structural steel exported to Australia from the Korea, South Africa and Thailand.

Customs conducted an investigation and submitted its report and recommendations to the Minister on 6 May 2002. On the basis of Customs' report, the Minister imposed anti-dumping measures on structural steel exported to Australia from Korea, South Africa and Thailand. The dumping duty notices were published on 5 July 2002.

On 12 February 2004, INI made an application for review of anti-dumping measures on the basis that there had been a change in the level of export prices and normal values. After considering the application and other information considered relevant, Customs commenced a review of the anti-dumping measures applying to exports of structural steel exported to Australia from Korea by INI.

Public notification of this review was published in *The Australian* newspaper on 4 March 2004. Customs notified that it would review the variable factors (normal values, export prices and non-injurious prices) relevant to the anti-dumping measures applying to structural steel exports by INI, and that it would examine the period 1 January 2003 to 31 December 2003 for this purpose.

4.2 Purpose of this statement

Customs is required to place an SEF on the public record within 110 days of initiation (22 June 2004). Customs is then required to present its final report and recommendations to the Minister on or before 6 August 2004.

The purpose of the SEF is to set out the essential facts that Customs proposes as the basis of its recommendations to the Minister. This allows interested parties the opportunity to comment on the essential facts under consideration before Customs makes its recommendations. Interested parties are given 20 days to respond to issues raised in the SEF. Responses to this SEF should be made by **12 July 2004**.

Customs is not obliged to have regard to any submission received after this period if to do so would prevent the timely preparation of a report to the Minister. Because of statutory time limits it will generally not be possible for Customs to consider new issues or facts raised after that stage. Submissions should be addressed to:

Director Operations 4
Trade Measures Branch
Australian Customs Service
5 Constitution Avenue
Canberra, ACT, 2601
Australia

Submissions made in response to the SEF should be limited to the issues of fact as set out in this document, and should include a non-confidential version to be placed on the public record. The public record also contains non-confidential versions of Customs reports. These reports cover export price, normal value and non-injurious prices. The SEF should be read in conjunction with these documents.

The public file is available for viewing and copying by all interested parties by contacting Office Management staff on (02) 6275 6547. All Customs dumping notices and this SEF are available on the Internet at: <http://www.customs.gov.au>.

4.3 The goods

The goods subject to the existing anti-dumping measures is structural steel exported to Australia from Korea by INI. The goods are generally quoted to Australian Standard AS/NZS 3679.1 or to an equivalent international standard.

The shapes and sizes of structural steel are classified under the *Customs Tariff Act 1995* to the tariff subheadings shown in the table below:

Shape	Size	Tariff subheading and statistical code
Channels (C or U sections)	Of a depth greater than or equal to 150mm but not exceeding 380mm	72.16.31.00/30
Universal beams (I sections)	Of a nominal depth greater than or equal to 150mm but not exceeding 610mm	72.16.32.00/31
Universal columns (H sections)	Of a nominal depth greater than or equal to 100mm but not exceeding 310mm	72.16.33.00/32
Angles (L sections).	With a nominal combined leg length greater than or equal to 240mm but not exceeding 400mm	72.16.40.00/33

The rate of Customs duty for structural steel from Korea is zero.

5 EXPORT PRICE**5.1 Sales to Australia**

During the review period, INI exported structural steel to only one Australian customer, Stemcor Australia Pty Ltd (Stemcor). INI regards, and Customs accept, that this Australian customer is at the 'distributor' level of trade in the Australian market.

During the review period INI exported only grade RL to Australia.

5.2 Date of sale

Export sales and normal values are compared at a date of sale that provide for a fair comparison. The date of sale is the date that the material terms of the sale are set.

INI stated that the material terms of the export sales were established at the time INI provided its order confirmations. This was important because order confirmation date was a considerable time before invoice date.

Customs examined a selection of INI's export sales to Australia during the review investigation period and established that in all cases the invoiced price was the price on the purchase order, regardless of when the goods were shipped. The price paid by Stemcor was also verified and confirmed to be the invoiced price.

To test INI's claims that order confirmation date establishes the material terms of sale, Customs charted export prices against both the invoice date and the date of the purchase order confirmation. Customs found that price variations for a particular purchase order confirmation date could be explained by the existence of two separate purchase orders confirmed on the same day, or by exports being made from Pohang rather than Incheon. When export price was charted against the date of invoice, Customs found that there were numerous different prices for each invoice date.

Customs proposes to accept that the material terms of the export sale were established on the date of order confirmation. Therefore, Customs proposes to use this date as the date of sale for the purpose of establishing corresponding normal values.

5.3 Conclusion – export price

Customs considers INI to be the exporter. INI manufactures the goods and makes export arrangements in response to sales negotiations/orders with the Australian customer; and it selects the market for export. INI also arranges and pays for transport of the goods to the FOB stage.

Customs found Stemcor to be the beneficial owner of the structural steel exported by INI at the time the goods arrived in the Australian port of landing. Therefore, Customs considers Stemcor is the importer.

In respect of the export transaction between INI and Stemcor, Customs found the structural steel was exported to Australia by INI and that Stemcor purchased the goods from INI. Customs also found the purchase of the structural steel by Stemcor was an arms length transaction.

Customs therefore consider export prices for such transactions should be determined in accordance with s. 269TAB(1)(a), using the invoiced FOB prices.

6 NORMAL VALUE

6.1 Domestic sales of like goods

INI provided a list of all grades of H-beams sold on the domestic market. It claimed that grade SB and grade HK were identical to the grade RL exported to Australia. Grade SB and grade HK accounted for the vast majority of domestic sales of like goods.

INI also provided a table identifying the applicable standard and specification for the various grade codes. Customs noted that this document referred to two Korean standards: KS D 3503 and KS D 3515. These standards apply to general structural and welded structural applications respectively. Customs summarised these documents and the attributes of each grade are in the following table:

Grade	Standard	Specification	Mpa
RL	AS 3679.1		280 - 320
SB	KS D 3503	SS 400	215 - 245
HK	KS D 3515	SM 490A	285 - 325

INI did not have any domestic sales of grades with a specification of SS490.

The structural steel sections sold on the domestic market are not identical in physical characteristics to the goods exported to Australia. However, they conform to equivalent international standards, are produced by a similar production process and end-user perception is that they are substitutable in structural applications.

Customs considers the domestic grades of H-beams identified by INI, i.e. the grade SB and grade HK could be considered like goods in terms of s. 269T(1).

OneSteel claims the grade SB sold on the Korean domestic market is not comparable with the grade RL exported to Australia, due to differences in specification. INI maintains that there is little difference in specification, cost or price. Customs compared costs and prices of the grade SB and grade HK sold on the domestic market and found the grade HK costs and prices to be slightly higher.

Customs found the specifications of the exported grade RL and domestic grade HK to be very similar, and considers the grade HK is the most appropriate for comparison with the exported grade RL. Customs proposes to use domestic sales of only grade HK for establishing normal values.

INI did not supply any information in respect of domestic sales of channels and angles as it claimed it had only exported a very small quantity, representing a small proportion of total exports during the review period. Customs' verified this claim during the visit to INI and this was consistent with the information contained on Customs commercial database.

INI provided details of its domestic sales of the structural steel and explained that its domestic customers for H-beams are distributors and end-users. Customs proposes to use only the domestic sales to distributors as a basis for normal value to ensure proper comparison with export sales to an Australian customer at distributor level.

6.2 Suitability of sales

Section 269TAC(2) provides that certain domestic sales may be unsuitable for use in determining normal values because of a factor in the market. One such factor is where there is an absence, or low volume, of sales of like goods in the domestic

market. Section 269TAC(14) provides a measure of 'low volume' as less than 5% of the volume of goods the subject of the application that are exported to Australia by the exporter.

Domestic sales of grade HK H-Beams exceed 5% of the volume of exports of grade RL to Australia in each month. Customs considers that there are no factors that make the domestic sales unsuitable for use in determining normal values.

6.3 Adjustments

Customs considers the following adjustments to domestic selling prices, in accordance with s. 269TAC(8), are necessary to ensure the normal value is properly comparable with the export price of the goods:

Adjustment	Add to/deduct from domestic selling price
Domestic credit terms	deduct
Domestic inland freight	deduct
Duty drawback	deduct
Inventory carrying costs	deduct
Export inland freight	add
Export finance costs	add
Export handling and other charges to FOB	add

6.4 Conclusion - normal value

6.4.1 H-beams

Based on the information provided by INI, and the verification processes conducted on site, the sales of grade HK H-beams by INI to distributors in the domestic market were found to be in transactions that were arms length, and at prices that were in the ordinary course of trade. The price paid for the goods in those domestic sales was satisfactorily verified.

Customs is satisfied that prices paid in respect of those domestic sales of grade HK are suitable for assessing normal value under s. 269TAC(1). Customs proposes to establish normal values using data in respect of domestic sales to distributors of grade HK, and adjust those prices under s.269TAC(8) in accordance with the items listed in section 6.3 above.

6.4.2 Angles and channels

As was the case in the original investigation, INI did not provide domestic sales information and costs in respect of angles and channels. Customs considers normal values should be established for these types of the goods, in terms of s. 269TAC(6) having regard to all relevant information. Customs proposes that normal values for angles and channels should be established using the weighted average export price for angles and adding the weighted average dumping margin that was established in respect of H-beams.

7 SUBMISSIONS**7.1 OneSteel submissions**

The following sub-sections summarise the points made by OneSteel in relation to INI normal value issues.

7.1.1 Domestic sales prices

OneSteel claimed it had collated price data from a number of sources in the Korean market place for Hbeams that was consistent, and indicative of Korean domestic prices for Hbeams from INI that are much higher than reported in Customs visit report. OneSteel cited information it obtained from the Korean Price Research Centre (KPRC), two 'Broker' reports, the Korean Metal Journal (KMJ), a Korean Trading House and the Korean Steel Association (KOSA).

7.1.2 Date of sale

OneSteel stated that it opposes the acceptance of order confirmations as establishing the effective date of sale. OneSteel believes that Customs should use the date of invoice as being the date of sale because this most accurately reflects the cost incurred in making those sales. OneSteel also considers it is apparent that date of invoice provides the most accurate comparison of shifts in domestic and export prices. OneSteel claims domestic and export prices run in parallel, and reflect changed conditions in terms of raw material costs and market demand conditions.

7.1.3 Angles and channels

OneSteel stated that Customs should have considered INI to be non-co-operative with the review in relation to not providing information in relation to these goods. OneSteel considers that Customs should establish normal values for these goods under s. 269TAC(6) by using the weighted average INI domestic price for grade SM490A H-beams and adding OneSteel's average price differential between H-beams and angles and channels for the respective products.

7.1.4 Allocation of INI corporate expenses

OneSteel considers that "Customs tolerance for INI to 'cherry pick costs'" is inconsistent with the way in which Customs has assessed OneSteel's Corporate Expenses". OneSteel stated that its corporate expenses were appropriately allocated to the structural operating business.

7.1.5 Interest Expenses - INI inventory carrying costs

OneSteel submitted that any calculation for adjustment in relation to inventory carrying costs should be made using INI's weighted average cost of capital in preference to the short-term interest rate average.

7.1.6 Sales levels ex-stock

OneSteel contests INI's claim that all of its domestic sales are made from inventory. OneSteel stated that it believed that only approximately 70% of domestic sales are made ex-stock and that the balance came from forward rollings.

7.1.7 Quarterly assessment for calculated dumping margins

OneSteel believes that when establishing dumping margins Customs should calculate them on a quarterly weighted average basis. OneSteel also claimed that because of the substantial shift that has occurred in the steel market for raw

materials and prices, that the last quarter of 2003 is the most appropriate basis for establishing any revised variable factors. OneSteel considers the last quarter best reflects the ongoing position of this market in terms of export prices, normal values and dumping margins.

7.1.8 Grade extra's

OneSteel submitted information obtained from KPRC that suggested INI charges domestic customers a 'grade extra' of KW30,000/MT for SM490A grade Hbeams, and therefore OneSteel queries the validity of sales data information presented to Customs.

7.2 **INI submissions**

INI responded to the claims made by OneSteel, and these points are summarised in the sub-sections below.

7.2.1 Domestic sales prices

INI claimed that KPRC is an organisation that provides market price research data and that the price is typically the retail price from distributors in relation to small customers without any discounts. INI stated that it periodically confirms the accuracy of the KPRC surveyed price data and that the price data is not the average price charged to all customers.

In relation to prices sourced from the KMJ, INI stated that such prices are typically retail prices charged to retailer's customers.

In terms of the sales prices of imports to Korea, INI stated that it was not in a position to provide detailed comments on price difference. However, INI stated that imports of Japanese products of similar quality and size would be similar in price to INI, but 'super big size' products would be at much higher prices. INI also stated that the import price from China would be lower priced than Korean products.

In relation to OneSteel's estimates of \$US30 per tonne for local transport, brokerage fees and traders margin applying to Japanese imports into Korea, INI stated this is much higher than INI's estimate of approximately \$US10 per tonne.

7.2.2 Date of sale

INI cited the World Trade Organization (WTO) Anti-dumping agreement stating that "When the comparison under paragraph 4 requires a conversion of currencies, such conversion should be made using the rate of exchange on the date of sale, provided that when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used", (Article 2.4.1) and "Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale" (Note no. 8).

INI further stated that Customs verified the terms of sale and found that all of the material terms were established on the purchase order date for export sales to Australia.

INI is of the opinion that Customs should reject OneSteel's claim in relation to the date of sale because it is not consistent with the WTO Agreement.

7.2.3 Angles and channels

INI stated that OneSteel agreed with the approach taken in the original investigation with respect to assessing variable factors for angles and channels. INI noted that the

Customs methodology on this occasion is the same as that for the original investigation.

7.2.4 Allocation of INI corporate expenses

INI cited the WTO Anti-Dumping Agreement stating that “for the purpose of paragraph 2, the amounts for administrative, selling and general costs and for profits shall be based on actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation” (Article 2.2). Accordingly, INI stated that:

- equity in income of affiliates;
- loss on impairment of investments securities;
- loss on purchases of shares; and
- penalties from Korean Fair Trade Commission

should not be included in the calculation of corporate expenses.

7.2.5 Interest Expenses - INI inventory carrying costs

INI stated that the inventory carrying expenses adjustment is based on the sales timing difference between domestic and export sales. INI explained that the domestic sales are made from inventory and there is a time difference between shipment date and production date for domestic sales. However, INI stated that export sales are made on the basis of a specific order and there is no time difference between shipment date and the production.

Therefore, INI consider the adjustment reflects this timing difference from production and shipment of the goods and is an opportunity cost for the timing difference rather than an actual cost. INI also noted that Customs verified the timing difference for the domestic sales and accepted the “opportunity cost” for the timing difference.

7.2.6 Sales levels ex-stock

INI stated that there is no basis for OneSteel’s claim that only 70% of domestic sales are made from stock. INI stated that the adjustment for inventory carrying cost was based on verified data from INI’s accounting records.

7.2.7 Quarterly assessment for calculated dumping margins

INI stated that its understanding of Customs approach to dumping margin calculations was that Customs initially calculated quarterly weighted average product margins and had regard to these in assessing overall product margins for the review period.

7.3 **Customs assessment of issues raised in submissions**

Customs has examined all of the price data submitted by OneSteel in relation to the domestic market in Korea for structural steel, and it has considered the INI comments on this data.

Customs acknowledges there is a reasonable degree of consistency among the data submitted by OneSteel from various sources. However, in Customs view, none of the price data submitted demonstrates that it is at odds with the sales data provided by INI and verified by Customs. Customs considers that the data submitted by OneSteel may be more representative of prices at another level of trade, or of prices for small volume sales, rather than that used as the basis for INI normal values.

In relation to the date of sale issue for exports, Customs considers it is in possession of sufficient evidence to support the INI claim that order confirmation date is the date

that best represents when the material terms of the sale were established. Customs proposes to maintain its comparative analysis of export prices and normal values with reference to that date for export sales, and the invoice date for domestic sales.

Given the extremely small volume of exports of angles by INI in the review period, Customs considers that it is reasonable to establish normal values in the same manner as the original investigation, as discussed in section 6.4.2 above.

Customs is satisfied that its approach to establishing costs to make and sell for both OneSteel and INI were consistent, and that it was conducted in accordance with the current legislation, policy and practices. Customs also considers its handling of the claim by INI for an inventory carrying cost adjustment was reasonable and consistent with the legislation, policy and practice.

Customs examined the cost and price data for INI on a quarterly basis and discovered no particular trend that would suggest the last quarter was unusual. On this basis, Customs proposes to have regard to export prices and normal values for the entire review period when recommending revised variable factors.

8 NON INJURIOUS PRICE**8.1 Unsuppressed selling price**

In the original investigation Customs considered that changes in the Australian and world markets for structural steel made it undesirable to base the unsuppressed selling price (USP) on data that was over five years old. Customs position did not change in the previous review of anti-dumping measures involving structural steel exported from Thailand. Customs considers that it is still undesirable to base the USP on data over seven years old.

In the previous review, Customs used OneSteel's weighted average net selling price in the three months to the end of August 2002 as the USP for the following reasons:

- OneSteel's price reflected prices achieved following Customs' initial investigation; and
- the Australian market was relatively unaffected by dumped imports of structural steel.

Customs considers the use of selling prices from 2002 is a reasonable option for establishing USP in this review.

Customs also considered using the profit margin from the sales for the three months ending 31 August 2002, as a means for assessing profit in a constructed USP. However, Customs is not in possession of verified cost to make and sell data from that period.

Customs explored the alternative of using another segment of OneSteel's business to provide an option for assessing an appropriate amount of profit for a constructed USP. OneSteel considers it is inappropriate to use profit from another product group because:

- each product group has unique dynamics in terms of domestic and import competition which render comparisons across product groups inappropriate;
- many steel products manufactured by OneSteel have been affected by dumped steel imports for some time, hence comparisons across product groups are inappropriate; and
- OneSteel's manufacturing facilities and production processes vary substantially for the different product groups, which has implications regarding differing cost structures for each facility and how they compare with domestic and overseas competition, and as such, this uniqueness again renders comparison across product groups as being inappropriate.

OneSteel considers that if Customs are to construct the USP, the profit derived from the structural mill in the March quarter 2004 is an appropriate option for assessing an amount of profit.

8.2 Non-injurious price – conclusion

Customs proposes to establish the USP by once again using OneSteel's weighted average net selling price in the three months to the end of August 2002.

In calculating the non-injurious price, Customs proposes to deduct from the USP amounts for post-FOB costs and an amount for importer's selling expenses and profit.