



Customs Act 1901 - Part XVB

TRADE MEASURES BRANCH
STATEMENT OF ESSENTIAL FACTS NO. 80

Certain Electric Resistance Welded Circular Hollow Sections
from The Republic of Korea

July 2004

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2 ABBREVIATIONS

API 5L	American Petroleum Institute standard 5L
ASA	Australian Steel Association
Capital	Capital Steel & Pipe Pty Ltd
CFR	cost and freight
CMC	CMC (Australia) Pty Ltd
CTMS	cost to make and sell
Daeyang	Daeyang P & T
East Coast	East Coast Pipe Supplies
EPBS	Enhanced Project By-Law Scheme
ERW CHS	electric resistance welded circular hollow sections
FOB	free-on-board
GP	GP Marketing Pty Ltd
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
Metalcorp	Metalcorp Steel Pty Ltd
Minister	Minister responsible for Customs
OneSteel	OneSteel Trading Pty Ltd
Orrcon	Orrcon Pty Ltd
OSD	OneSteel Distribution
OSMM	OneSteel Market Mills
Pipeline Supplies	Pipeline Supplies of Australia
SCL JV	Spie Capag Lucas Joint Venture
SeAH	SeAH Steel Co Ltd
SG&A	selling general and administrative (expenses)
TCO	Tariff Concession Order
the Act	the Customs Act 1901
the goods	the goods the subject of the application
the investigation period	1 October 2002 to 31 December 2003
the injury period	1 January 2001 to 31 December 2003
USP	unsuppressed selling price
Van Leeuwen	Van Leeuwen Pipe and Tube Pty Ltd
WTO	World Trade Organization

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).

The applicant submitted further information in support of its application, the most recent of which was received by Customs on 18 February 2004. As a result, the maximum period of 20 days allowed to examine the application was recommenced. 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 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.

Interested parties may comment on the matters being considered by Customs in formulating the report and recommendation. This statement sets out the essential facts on which Customs will base its recommendations to the Minister. Interested parties are given 20 days to respond to issues raised in the statement.

Responses to this statement should be made by **27 July 2004**. Submissions should be limited to the issues of fact as outlined in this document. Because of the statutory time limit to make a report to the Minister, it will generally not be possible for Customs to consider new issues or facts raised at this stage.

Submissions should be sent to:

Director Operations 2
Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

1 Customs is not obliged to have regard to any submissions made in response
2 to this statement received after 27 July 2004 if doing so would prevent the
3 timely preparation of the report to the Minister.

4 Interested parties intending to respond to the statement must include a non-
5 confidential version of their submission for placement on the public record.

6 As well as the non-confidential submissions by interested parties, and the
7 statement of essential facts, the public record also contains non-confidential
8 versions of Customs' reports. These reports cover normal value, export price
9 and material injury. The statement of essential facts should be read in
10 conjunction with these documents.

11 Any party wishing to examine the public record before lodging a submission in
12 response to this statement should contact the Trade Measures Office
13 Management staff on (02) 6275 6547.

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

4 GOODS

4.1 GOODS UNDER CONSIDERATION

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 imported product is generally supplied with a coating such as a rust preventative solution or varnish. However, in certain instances offers have been made in the Australian market for imported ERW CHS with other coatings such as Polyethylene (PE) and Fusion Bonded Epoxy (FBE).

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 noted during the investigation that the GUC had also been misclassified under a number of other subheadings in 7305 and 7306 and under heading 7304. Any such misclassified goods detected have been taken into account in Customs' analysis.

4.2 CLARIFICATION OF THE GOODS INVESTIGATED

4.2.1 One good or two

4.2.1.1 Issue

Prior to the commencement of the investigation, Customs had reservations regarding the Australian industry's claim that all grades of ERW CHS should be considered one good. Customs considered, however, that this issue would be resolved during the course of the investigation.

1 4.2.1.2 Claims by the Australian industry

2 The Australian industry stated that all ERW CHS in the range of sizes, wall
3 thicknesses and grades covered by the description of the goods represents
4 one good. It explained all types of the product are manufactured at the same
5 facility using, in most cases, identical processes. It noted the primary
6 difference between grades is the result of the grade of hot rolled coil (HRC)
7 used as raw material feed.

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

14 4.2.1.3 Customs' assessment of claims

15 Customs considered, during the investigation, whether the low-grade and
16 high-grade pipe constituted one good or two separate goods. Customs noted
17 that there appeared to be two distinct markets into which the different grades
18 were sold. However, after discussions with interested parties during the
19 investigation, and in the absence of any submissions to the contrary, Customs
20 considers the Australian industry's description of the goods is not
21 inappropriate.

22 **4.2.2 Inclusion of imports of 18" outside diameter**

23 4.2.2.1 Claims by interested parties

24 The Australian Steel Association (ASA)

25 The (ASA) lodged a submission on behalf of two importers, Capital Steel &
26 Pipe Pty Ltd (Capital) and Van Leeuwen Pipe and Tube Pty Ltd (Van
27 Leeuwen) but noted that the information submitted to Customs also affects
28 other members of the ASA.

29 The ASA claimed that OneSteel seemingly wanted to exclude Japanese
30 imports with an outside diameter of 18" or 457.2mm which "it considers ... to
31 be obviously non-injurious" by describing the GUC as ERW CHS with an
32 outside diameter up to an including 457mm and 12.7mm wall thickness. It
33 submitted that the Japanese imports should be regarded as like goods and be
34 included within the scope of the investigation.

35 4.2.2.2 Customs' assessment of claims

36 The application was intended to cover ERW CHS with outside diameter of 6
37 inches to 18 inches. Accordingly, Customs initiated with the intention of
38 including 6 inch to 18 inch outside diameter ERW CHS within the scope of the
39 investigation, which is the outside diameter range the Australian industry is

1 capable of producing at its Kembla Grange plant. Customs notes that
2 specification sheets provided in the application by the Australian industry lists
3 ERW CHS with an outside diameter of 18" as 457.0mm.

4 Customs also noted during the investigation that different members of the
5 industry described the size of particular ERW CHS in various ways. For
6 instance, imports of ERW CHS with outside diameters of 6", 6 5/8" inch and
7 168mm were all referred to as 6" pipe.

8 Accordingly all imports of 18" ERW CHS, including the Japanese imports
9 raised by the ASA, have been included in Customs' analysis.

10 **4.3 IMPORTS**

11 **4.3.1 Nominated country**

12 Customs identified one exporter of high-grade ERW CHS and a number of
13 exporters of low-grade ERW CHS from Korea. This included three
14 manufacturers and a number of traders.

15 **4.3.2 Volume of imports**

16 To determine the volume of imports during the investigation period Customs
17 used a variety of sources including:

- 18 verified data from exporters;
- 19 verified data from Australian importers of the GUC from Korea as
- 20 well as other countries; and
- 21 Customs' database.

22 Korea's share of total import volume of goods imported from all sources
23 during the investigation period was 38%.

5 AUSTRALIAN INDUSTRY

5.1 COMPANY STRUCTURE

OneSteel is a fully owned subsidiary of OneSteel Limited, a publicly listed company. OneSteel Limited has three business divisions in Australia which comprise:

OneSteel Whyalla Steelworks – which manufactures the steel feed stock for OneSteel Market Mills for further processing as well as producing at the site a range of Hot Rolled Structural Products, Rail Products and Slabs but not ERW CHS.

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.

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.

This operating structure is supported by a corporate and subsidiary entity structure which is a legacy of the “spin-out” of BHP assets which occurred in 2000.

5.2 LIKE GOODS

OSMM produces a range of ERW CHS that is identical in size, specification and chemical composition to the imported goods. Further, the locally produced goods generally comply with the same Australian standard or with equivalent international standards.

As a result of the industry visit undertaken and an analysis of the technical information gathered from interested parties, Customs is satisfied that ERW CHS manufactured by OSMM are like goods to the GUC, pursuant to s. 269T(1) of Act. Although not identical in all respects to the GUC, the Australian produced goods have characteristics closely resembling the imported goods.

5.3 MEMBERS OF THE AUSTRALIAN INDUSTRY

The applicant stated that before January 2003 OSMM was the only Australian manufacturer of the goods. Orrcon Pty Ltd (Orrcon) had manufactured trials of some products within the specified range in the injury period but that the quantities were not significant. Customs contacted Orrcon requesting

1 information on its production and sales of ERW CHS. Orrcon advised that it
2 did not intend to provide a response to Customs' request.

3 **5.4 ONESTEEL TRADING PTY LTD, ONESTEEL MARKET MILLS &** 4 **ONESTEEL DISTRIBUTION**

5 While OneSteel Trading Pty Limited is recorded as the applicant, the company
6 considers that the Australian industry is constituted by the operations of
7 OSMM, the oil & gas pipe manufacturing business division of OneSteel
8 Limited.

9 **5.4.1 OneSteel Distribution as a customer of OneSteel Market Mills**

10 The applicant considers the 'sales' from OSMM to OSD to be arms length
11 transactions for a number of reasons including the operation of OSMM and
12 OSD as discrete businesses which function as if they were completely
13 separate legal and operating entities. They stated that the two businesses
14 operate as stand alone profit centres within OneSteel Limited.

15 The applicant submitted that the transactions between OSMM and OSD are
16 arms length and that using the data supplied in Appendix 4 and Appendix 6.1
17 of the application, which was sourced from the accounts of OSMM, would
18 allow Customs to properly analyse the materiality of injury incurred by the
19 Australian industry caused by the allegedly dumped imports of ERW CHS.

20 To support the company's strong view concerning the arms length nature of
21 the transactions and the appropriateness of Customs assessing injury to the
22 manufacturing arms of the company only, the applicant lodged a submission¹
23 which cites:

24 the quarterly negotiations that occur between OSMM and OSD
25 concerning pricing;

26 the company protocol that is in place governing the conduct of
27 interaction between the OSMM and OSD. (Copy provided at
28 Attachment B-1.1 of the applicant's submission);

29 examples of OSD reverse auctions where OSMM were not the
30 preferred supplier;

31 pricing comparisons to related and unrelated customers;

32 notes to OneSteel Limited's annual report;

33 discrete financial reporting lines for OSMM and OSD;

34 separate but replicated management structures for OSMM and
35 OSD;

36 static OSD gross profit margins for ERW CHS in recent periods;

¹ Non-Confidential Attachment OS5 to the OneSteel Visit Report, May 2004.

1 OneSteel Limited's longer term intentions to corporatise their
2 business divisions; and
3 legal obligations in respect of product warranty.

4 **5.4.2 OneSteel Distribution as part of the Australian industry**

5 Notwithstanding the above claims, Customs believes that the Australian
6 industry in this application is properly constituted by both OSMM and OSD,
7 because they are two business divisions of the same company. Therefore, as
8 part of the verification of the industry data, Customs requested OSD's costs
9 and revenues to properly analyse injury factors.

10 The applicant subsequently provided certain sales and cost information for
11 OSD in the Appendix A.4 and Appendix A.6.1 format. Customs confirmed this
12 information by reference to OSD's accounting records as detailed in a
13 subsidiary report to the industry report.

14 The data provided was not sufficient to properly analyse injury factors in
15 respect of the Australian industry, as it was not in an integrated format. The
16 cost and sales data of OSD was however analysed to ensure that it did not
17 indicate a situation contrary to that established from the analysis of OSMM
18 data. On this basis Customs used the transactions between OSMM and OSD
19 to find indications of injury.

20 **5.4.3 OneSteel Distribution as an importer of the GUC**

21 Before initiation Customs identified OSD as a possible importer of the GUC.
22 OSD was also treated as an importer during the investigation and was
23 requested to provide documentation relating to its imports.

24 **5.4.3.1 Claims by interested parties**

25 Some exporters claimed that OneSteel should be excluded from the "domestic
26 industry" as a result of being either related (by ownership) to the importers, or
27 themselves an importer of the allegedly dumped product.

28 The parties also stated that all GUC imported by the applicant or its related
29 companies should be excluded from the volume of imports from Korea in the
30 injury analysis.

31 **5.4.3.2 Customs' response to claims**

32 While the world Trade Organisation (WTO) Anti-Dumping Agreement provides
33 that producers who are importers themselves may be excluded and the
34 industry defined as referring to the rest of the producers, Australia's legislation
35 does not have a similar provision.

1 On the issue of GUC imported by the applicant, either directly or indirectly
2 through other parties, Customs has, in the injury analysis, separated these
3 imports from the volume of imports from Korea and other countries.

4 **5.4.4 OneSteel Market Mills as an importer of the GUC**

5 OSMM advised and provided details of its imports of high-grade ERW CHS
6 during the injury period.

7 **5.5 PRODUCTION**

8 OSMM produces ERW CHS at its facility at Kembla Grange. Customs visited
9 OSMM's production facility to verify information contained in the application
10 and to observe the production process.

11 Customs concluded that OSMM undertakes a substantial process of
12 manufacture in producing ERW CHS and that, pursuant to s. 269T(2), (3) and
13 (4) of the Act, the ERW CHS was manufactured in Australia and that OSMM
14 and OSD constitute the industry producing like goods.

6 AUSTRALIAN MARKET

The Australian market for ERW CHS is supplied by OSMM's locally manufactured product, either directly to the market or through OSD, and imported goods.

6.1 MARKET SEGMENTS

The applicant defined two market segments: high-grade and low-grade ERW CHS. High-grade ERW CHS is primarily used for cross-country long distance high-pressure oil or gas pipelines and is manufactured to meet API 5L grades X46 through to X80. The applicant explained that low-grade ERW CHS, which is manufactured to meet standards including API 5L Grades B and X42, AS1163 and AS1393, is used for a wide variety of purposes including:

Short-distance gas pipelines primarily for Utility Companies

Slurry pipeline applications

Structural Fabrication

Process pipe work in factory or plant applications

Pressure fire hydrant systems

Bore casing

Piling applications²

6.2 MARKETING AND DISTRIBUTION

6.2.1 High-grade

High-grade ERW CHS is supplied direct by OSMM to pipeline owners and contractors for major cross-country pipeline projects, generally through a tender process. Tenders from parties offering Korean product are usually made via trading houses.

The applicant advised that the high-grade ERW CHS segment of the market has a "relatively cyclic 'peak and trough' style"³.

6.2.2 Low-grade

OSMM, OSD and importers supply low-grade ERW CHS, either directly or indirectly through distributors and/or wholesalers, to construction companies, small fabricators, bore drillers, piling companies and other end users.

² Non-confidential application, page 14.

³ Non-confidential application, page 18.

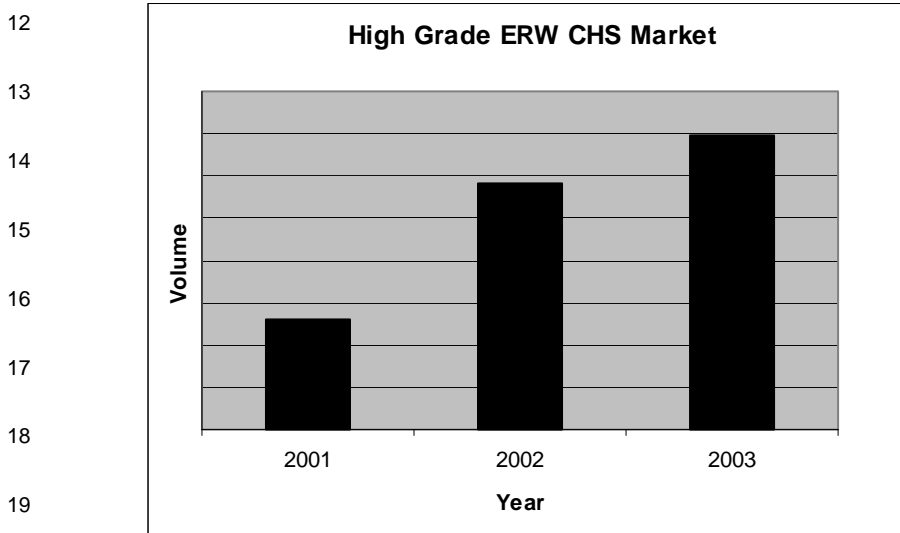
1 The applicant stated the low-grade ERW CHS market segment is the smaller
2 proportion of the total market but has a more consistent and less cyclical
3 product demand.

4 **6.3 MARKET SIZE**

5 The market size for ERW CHS has been estimated using imports from
6 Customs' commercial database and verified sales data obtained from the
7 Australian industry and importers of ERW CHS from Korea and other
8 countries.

9 **6.3.1 High-grade ERW CHS**

10 The size of the domestic high-grade market segment increased significantly
11 over the period of 2001 to 2003, as demonstrated in the graph below:

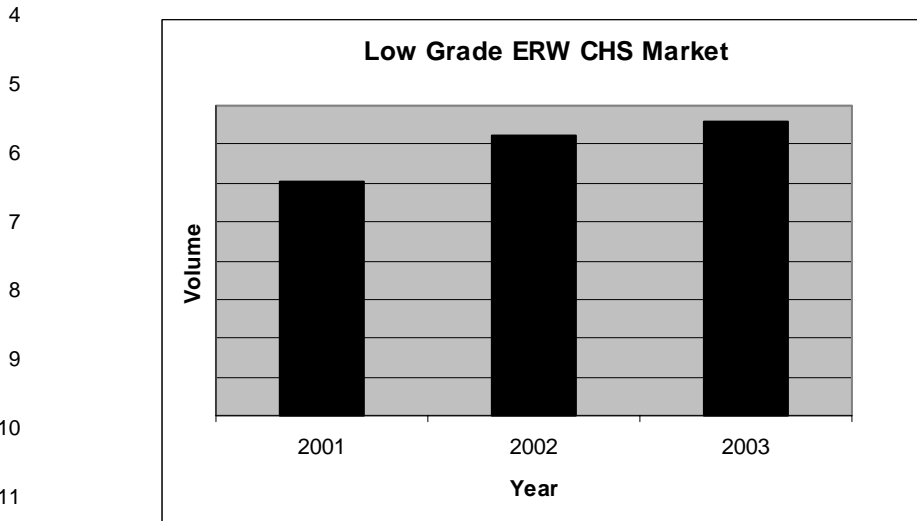


21 Customs noted that the Australian industry and Korea both held a significant
22 proportion of the market.

23

1 6.3.2 Low-grade ERW CHS

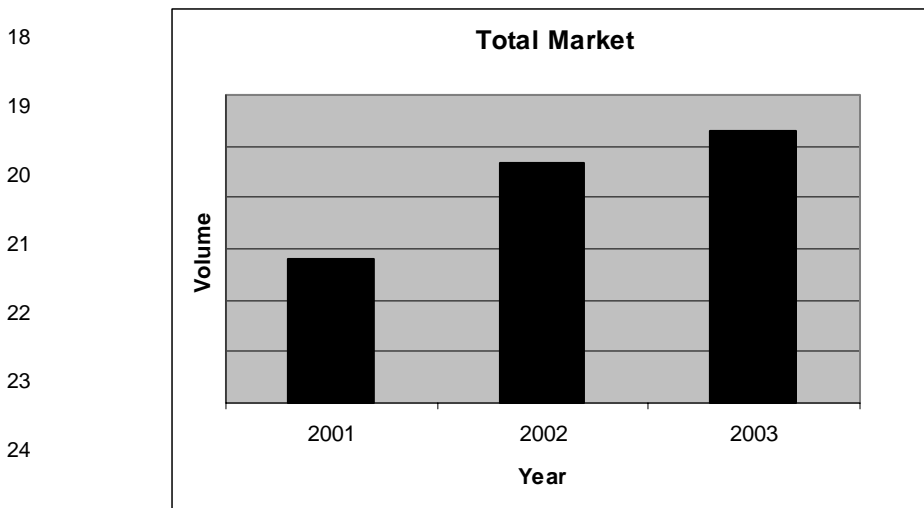
2 The size of the domestic low-grade market segment increased over the period
3 of 2001 to 2003, as demonstrated in the graph below:



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

14 6.3.3 Total ERW CHS

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



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

7 THE DUMPING INVESTIGATION

This section explains the results of Customs' investigations into whether ERW CHS was exported from Korea at dumped prices during the investigation period.

Dumping occurs when a product of one country is exported to another country at a price less than its normal value. Export price and normal value of goods are determined under s. 269TAB and s. 269TAC of the Act respectively.

Customs identified possible exporters of ERW CHS from Korea using its commercial database and information supplied in the application for dumping duties. Customs sent questionnaires to these parties inviting them to provide information.

Customs found that the following three Korean producers manufactured ERW CHS exported to Australia:

Husteel Co Ltd (Husteel),

Hyundai Hysco Co Ltd (Hysco), and

SeAH Steel Co Ltd (SeAH).

Their sales to Australian customers were made, in some cases, directly by the Korean manufacturer to the Australian customer and in some cases by Korean trading companies. Only two Korean trading companies exported ERW CHS to Australia over the investigation period in significant volumes. These Korean traders were:

Daeyang P & T (Daeyang), and

LG International Corporation (LGI).

Customs dumping investigation included the three manufacturers, Husteel, Hysco and SeAH, and the two trading companies, Daeyang and 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

1

2 Customs also visited the following importers of ERW CHS

3 Amtrade International Pty Ltd

4 Capital Steel Pty Ltd

5 East Coast Pipe Supplies (East Coast)

6 Metalcorp Steel Pty Ltd (Metalcorp)

7 Spie Capag-Lucas Joint Venture (SCL JV)

8 Stemcor (A/asia) Pty Ltd

9 Van Leeuwen Pipe & Tube Pty Ltd

10 Orrcon Pty Ltd

11 GP Marketing Pty Ltd (GP)

12 CMC (Australia) Pty Ltd

13 **7.1 HUSTEEL**14 **7.1.1 Export Price**

15 During the investigation period, Husteel sold low-grade ERW CHS to three
 16 Australian traders and distributors. It did not sell high-grade ERW CHS to
 17 Australia in the investigation period.

18 Customs considers that Husteel is the exporter of the goods because it:

19 selects the market for export;

20 conducts sales negotiations with the Australian customers or their
21 representatives;

22 makes the final decision on whether the export transaction occurs;

23 determines the final selling price;

24 arranges inland freight, customs clearance in Korea and ocean
25 freight where applicable;26 carries the cost of these expenses, depending on the terms of each
27 sale; and

1 the Australian customer pays Husteel for the goods.

2 Customs found that Husteel's Australian customers were the importers of the
3 goods as they were the beneficial owners of the goods at the time the goods
4 arrived in Australia.

5 Material examined by Customs during the verification visit did not indicate
6 that:

7 there is any consideration payable for or in respect of the goods
8 other than their price;

9 the price is influenced by a commercial or other relationship
10 between the buyer, or an associate of the buyer, and the seller, or
11 an associate of the seller; or

12 the buyer, or an associate of the buyer, will, subsequent to the
13 purchase or sale, directly or indirectly, be reimbursed, be
14 compensated or otherwise receive a benefit for, or in respect of the
15 whole or any part of the price.

16 Customs is satisfied that sales by Husteel to the Australian importers were
17 arms length transactions in terms of s. 269TAA of the Act.

18 Customs is of the view that, for sales by Husteel to its Australian customers:

19 the goods have been exported to Australia otherwise than by the
20 importer and have been purchased by the importer from the
21 exporter; and

22 the purchases of the goods by the importer were arms length
23 transactions.

24 Customs calculated a weighted average export price for ERW CHS exported
25 by Husteel over the investigation period. Customs has verified all the
26 circumstances of the exportations and considers that export prices should be
27 established under s. 269TAB(1)(a) of the Act.

28 **7.1.2 Normal value**

29 Domestic sales

30 Customs verified information on all domestic sales of low-grade ERW CHS by
31 Husteel. Husteel sells low-grade ERW CHS domestically to distributors and
32 end-users. Prices between distributors and end-users did not vary
33 significantly.

34 Customs selected domestic grades that were identical, and therefore like
35 goods in terms of s.269T of the Act, to the exported goods. Domestic sales of
36 the identical goods occurred in sufficient volume in terms of s. 269TAC(14) of
37 the Act to permit fair comparison and Customs has based its assessment of
38 normal value upon those sales.

Ordinary course of trade

Customs compared the price paid by domestic customers to Husteel's cost to make and sell like goods and found that for one of the selected grades, more than 20% of the sales were sold at a loss and not recoverable in terms of s. 269TAAD of the Act. Customs concluded that these sales were not in the ordinary course of trade, and as such, were excluded in calculating normal values.

Domestic sales of the other selected grade of low-grade ERW CHS were made in the ordinary course of trade in accordance with s. 269TAAD of the Act.

Arms length transactions

Customs is satisfied that domestic sales of low-grade ERW CHS by Husteel are arms length transactions in terms of s. 269TAA of the Act.

Adjustments

Husteel claimed adjustments for level of trade, credit terms, inventory carrying costs, indirect selling expenses and packing.

Customs has calculated negative adjustments in respect of domestic credit terms, domestic inland freight, inventory carrying costs and advertising. Positive adjustments were made in respect of packing and coating, export inland freight, wharfage and associated free-on-board (FOB) charges.

Customs considered downward adjustments for indirect selling expenses and level of trade were not warranted.

Customs proposes to recommend that domestic prices be adjusted in accordance with s. 269TAC(8) of the Act to ensure that normal values are properly comparable with export prices.

Normal value - conclusion

Customs has determined a normal value for ERW CHS exported by Husteel under s. 269TAC(1) of the Act on the basis of the weighted average price paid for like goods sold by Husteel in the ordinary course of trade for 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.

7.2 HYSCO

7.2.1 Export Price

During the investigation period, Hysco exported low-grade ERW CHS to one Australian distributor. Hysco did not export high-grade ERW CHS to Australia during the investigation period.

1 Customs examined the export transactions and was satisfied that the amount
2 invoiced by Hysco was the price paid or payable by the Australian customer.

3 Customs was satisfied that the transactions between Hysco and its Australian
4 customer were arms length under s. 269TAA of the Act.

5 Customs is of the view that:

6 the goods have been exported to Australia otherwise than by the
7 importer and have been purchased by the importer from the
8 exporter; and

9 the purchases of the goods by the importer were arms length
10 transactions.

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

14 **7.2.2 Normal value**

15 Domestic sales

16 Hysco sells a range of low-grade ERW CHS in Korea, including types that
17 correspond to the types it exported to Australia during the investigation period.
18 Customs verified information on all Hysco's domestic sales of low-grade ERW
19 CHS. Hysco sells low-grade ERW CHS domestically to distributors and end-
20 users but stated that whether the customer was a distributor or end-user had
21 no bearing on price.

22 To assess dumping, Customs selected the domestic grades of ERW CHS that
23 were identical, and therefore like goods in terms of s.269T of the Act, to the
24 exported goods. Domestic sales of the identical goods occurred in sufficient
25 volumes in terms of s. 269TAC(14) of the Act to permit fair comparison and
26 Customs has based its assessment of normal value upon those sales.

27 Ordinary course of trade

28 Customs compared the price paid by domestic customers to Hysco's cost to
29 make and sell the goods. Customs found that for certain outside diameters of
30 the selected grades, more than 20% of the sales were sold at a loss and not
31 recoverable. Customs concluded that these sales were not in the ordinary
32 course of trade, and as such, excluded these sales from the calculation of
33 normal values.

34 All other sales of low-grade ERW CHS were made in the ordinary course of
35 trade in accordance with s. 269TAAD of the Act.

36 Arms length transactions

37 Customs is satisfied that domestic sales of low-grade ERW CHS by Hysco
38 were arms length transactions in terms of s. 269TAA of the Act.

1 Adjustments

2 Hysco claimed that domestic selling prices should be adjusted for differences
3 in credit terms, packing, inland freight and port charges, duty drawback, bad
4 debts and foreign exchange gains to allow a fair comparison with export
5 prices.

6 Customs has calculated negative adjustments in respect of domestic credit,
7 domestic inland freight, bad debts and domestic packing. Positive
8 adjustments were made in respect of export packing, export inland freight and
9 port charges, and export credit.

10 Customs considered downward adjustments for duty drawback and foreign
11 exchange gains were not warranted.

12 Customs proposes to recommend that domestic prices be adjusted in
13 accordance with s. 269TAC(8) of the Act to ensure that normal values are
14 properly comparable with export prices.

15 Normal value - conclusion

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

21 **7.3 SEAH**

22 **7.3.1 Export price**

23 During the investigation period, ERW CHS manufactured by SeAH was sold
24 into the Australian market via the following channels:

25 sales of high-grade ERW CHS (High-grade E1) to a Korean trader
26 who on-sold the goods to an Australian end user/project manager;

27 sales of low-grade ERW CHS (Low-grades E1 & E2) to an
28 Australian trader/distributor with some shipments being purchased
29 directly from SeAH and others purchased through an Australian
30 based trading company.

31 In the case of the high-grade sales to the Korean trader, Customs considers
32 that SeAH is the exporter because it:

33 was involved in the decision to manufacture High-grade E1 for a
34 known Australian customer;

35 was aware of the very precise technical specifications and product
36 requirements of the Australian customer from an early stage of

1 negotiations and produced the GUC to the specific grade, outside
2 diameter, wall thickness and length requirements of that customer;
3 was aware of the exact quantity to produce for the Australian
4 customer, the shipping schedule and the substantial penalties if
5 those deadlines were not met;
6 decided to allocate a substantial production capacity for a period to
7 the production of the quantity required for a large high-grade project
8 in Australia;
9 factored the terms and conditions contained in the purchase order
10 between the Korean trader and its Australian customer into its
11 pricing decision, including the terms relating to contingent liabilities
12 and quality guarantees, some of which were substantial;
13 changed its normal certification procedures to comply with the
14 requirements of the Australian customer;
15 was responsible for coordinating the production completion and
16 overseas despatch such that it met the delivery schedule specified
17 in the contract with the Korean trader which mirrored the terms and
18 conditions of the Korean trader's contract with its Australian
19 customer;
20 was responsible for movement and cost of the goods to the point of
21 export;
22 was responsible for arranging overseas freight for the GUC; and
23 was responsible for payment of claims from the Australian
24 customers.

25 In the case of sales to the Australian trader/distributor (including those made
26 via an Australian trader), Customs considers that SeAH is the exporter
27 because it:

28 decided to manufacture for the Australian market;
29 conducted sales negotiations with the trader/distributor or its
30 representatives;
31 was aware of the quantity, specifications and product requirements
32 of the trader/distributor and its customers, including outside
33 diameter, wall thickness and length of the pipe;
34 made all decisions on allocation of production capacity for the
35 manufacture of the GUC and price of the GUC to the
36 trader/distributor;
37 was responsible for movement and cost of the goods to the point of
38 export; and
39 was responsible for arranging overseas freight for the GUC.

40 Customs found that transactions between SeAH and its customers are arms
41 length in terms of s. 269TAA of the Act.

1 Customs considers that for the GUC exported by SeAH, the importers are the
2 Australian end user and the trader/distributor. They had beneficial ownership
3 of the goods at the time of their arrival within the limits of the port in Australia
4 at which they landed.

5 In respect of SeAH's sales of high-grade to the Korean trader and low-grade
6 sales via the Australian trader, Customs considers there are reasonable
7 grounds to conclude that the GUC were exported to Australia other than by
8 the importer, but were not purchased by the importer from the exporter.
9 Therefore, export prices for these sales cannot be established under
10 s. 269TAB(1)(a) or 269TAB(1)(b) of the Act. Since Customs is aware of the
11 circumstances of those exportations it has had regard to those circumstances
12 and proposes to recommend that the Minister determine export prices under
13 s. 269TAB(1)(c) of the Act using the invoiced FOB prices from SeAH to the
14 Korean trader and the Australian trader.

15 In respect of sales made by SeAH directly to the Australian trader/distributor,
16 Customs considers that there are reasonable grounds to conclude that the
17 GUC were exported to Australia other than by the importer, and that they
18 were purchased by the importer from the exporter. Therefore, Customs has
19 established export prices under s. 269TAB(1)(a) of the Act using SeAH's
20 invoiced FOB prices to the trader/distributor.

21 Customs has calculated an export price for ERW CHS using a weighted
22 average of the export prices for Low-grade E1, Low-grade E2 and High-grade
23 E1.

24 **7.3.2 Normal value**

25 **7.3.2.1 Domestic sales**

26 SeAH sold a range of high and low-grade ERW CHS in Korea during the
27 investigation period and Customs verified information on those domestic
28 sales. Customs selected domestic grades of high and low-grade ERW CHS
29 (Low-grade D1 and High-grade D1) that had identical characteristics to all but
30 one grade of the exported goods. SeAH did not sell on the domestic market a
31 product that corresponds to Low-grade E2.

32 SeAH sold Low-grade D1 to both end users and distributors but considers
33 there is no difference in price between the levels of trade.

34 SeAH did not sell high-grade ERW CHS into any large domestic projects
35 during the investigation period and Customs established that all its domestic
36 sales of high-grade ERW CHS were sold as 'overroll' (surplus product
37 manufactured in response to other orders). SeAH also confirmed that the
38 considerations applying to establishing the price for the high-grade sales to
39 Australia, for example the risk associated with liquidated damages for failing
40 to meet agreed product quality and delivery schedules, did not apply to setting
41 the domestic prices for those domestic sales.

1 SeAH advised there are no rebates, commissions or other reimbursements
2 and that the invoice price is the final price paid or payable. However, it
3 explained that early payment discounts applied to customers making payment
4 in respect of promissory notes before the maturity date.

5 Ordinary course of trade

6 Customs compared the price paid by domestic customers to SeAH's quarterly
7 cost to make and sell for each grade/dimension of like goods. Customs
8 found that SeAH's domestic sales of like goods of Low-grade D1 and High-
9 grade D1 were in the ordinary course of trade in accordance with
10 s. 269TAAD of the Act.

11 Arms length transactions

12 Customs found that a small volume of like goods had been sold to a related
13 company with significant ownership overlap with SeAH and that the prices to
14 that company were 'quite favourable' as a result of the relationship. Customs
15 considers that the sale prices to that company were influenced by the
16 relationship and consequently those transactions are not arms length.

17 With the exception of SeAH's transactions with the related company, Customs
18 is satisfied that SeAH's domestic sales of like goods are arms length
19 transactions in terms of s. 269TAA of the Act.

20 Volume and suitability of sales

21 *Low-grade D1*

22 Customs found there was sufficient volume of domestic sales of Low-grade
23 D1 in terms of s. 269TAC(14) of the Act, sold in arms length transactions at
24 prices paid in the ordinary course of trade for the purpose of calculating
25 normal values in terms of s. 269TAC(1) of the Act.

26 In addition, Customs considers the situation in the Korean market for Low-
27 grade D1 is such that sales in that market are suitable for establishing normal
28 values in terms of s. 269TAC(1) of the Act.

29 *High-grade D1*

30 Customs found there was insufficient volume of domestic sales of High-grade
31 D1 in terms of s. 269TAC(14) of the Act, sold in arms length transactions at
32 prices paid in the ordinary course of trade for the purpose of calculating
33 normal values in terms of s. 269TAC(1) of the Act.

34 Customs also considers that the situation in the Korean market is such that
35 SeAH's sales of high-grade ERW CHS in that market are not suitable for use
36 in establishing normal values under s. 269TAC(1) of the Act. As explained
37 above, SeAH sold only 'overroll' high-grade ERW CHS on the domestic
38 market.

1 7.3.2.2 Sales by other sellers

2 Customs obtained information on sales by another seller of high-grade ERW
3 CHS to a gas pipeline project in Korea during the investigation period.

4 Customs considered all factors that would permit fair comparison with the
5 exported high-grade ERW CHS, including the quantity of pipe supplied to the
6 project, the grade of pipe, the period in which the pipe was supplied and
7 circumstances of sale. Customs concluded the sales by another seller did not
8 provide a reasonable basis for establishing normal value under s. 269TAC(1)
9 because:

10 the volume of the other seller's sales was insufficient in terms of
11 s. 269TAC(14) of the Act; and

12 there was no reasonable basis to make the necessary adjustments
13 that would allow a fair comparison with the exported high-grade
14 ERW CHS.

15 7.3.2.3 Constructed normal value

16 Customs has calculated normal values under s. 269TAC(2)(c) of the Act for
17 High-grade E1 and Low-grade E2. There were insufficient suitable domestic
18 sales of like goods to these products.

19 For High-grade E1 Customs used manufacturing costs incurred in the
20 production of the High-grade E1 exported to Australia. Customs has
21 calculated selling, general and administrative expenses (SG&A) and profit
22 relating to sales of Low-grade D1.

23 Customs was mindful that the gross margins achieved by SeAH for domestic
24 sales of Low-grade D1 might not accurately reflect what might be achieved for
25 large volume domestic sales to contract-based projects of the high-grade
26 products. However, in the absence of any other reasonable means for
27 establishing SG&A costs and profit for High-grade E1, it considered the only
28 reasonable and available approach was to use domestic sales of Low-grade
29 D1 as a basis for assessing SG&A expenses and profit.

30 For Low-grade E2, Customs used manufacturing costs incurred in the
31 production of the Low-grade E2 exported to Australia and SG&A and profit
32 from sales of like goods, Low-grade D1, in the domestic market by SeAH.

33 7.3.2.4 Adjustments

34 Customs considered whether adjustments for inland freight, credit terms,
35 packing, inventory carrying costs, duty drawback, handling & other charges to
36 FOB, selling expenses and warranty and other claims made on the
37 manufacturer were necessary in order to ensure normal values were properly
38 comparable to export prices.

1 Customs has calculated negative adjustments in respect of domestic credit
2 terms, domestic inland freight and duty drawback (for Low-grade E1 only).
3 Positive adjustments were made in respect of export inland freight and
4 handling and other charges to FOB. In addition, Customs considered it
5 necessary to incorporate a positive adjustment within the constructed High-
6 grade E1 normal value to take account of the costs relating to claims that
7 applied to export sales of High-grade E1 into the Australian project market
8 that did not apply to domestic sales of Low-grade D1.

9 Customs was not satisfied that adjustments for selling expenses, packing,
10 inventory carrying costs and warranty and other claims were warranted.

11 7.3.2.5 Normal value - conclusion

12 Customs proposes to establish a normal value for ERW CHS using a
13 weighted average of normal values calculated for Low-grade E1 and Low-
14 grade E2 and High-grade E1.

15 Customs proposes to establish a normal value for Low-grade E1 under
16 s. 269TAC(1) of the Act based on the weighted average price paid for like
17 goods sold by SeAH in the ordinary course of trade for home consumption in
18 Korea in sales that were arms length transactions, with adjustments to
19 domestic selling prices in accordance with s. 269TAC(8) of the Act.

20 Customs proposes to establish normal values for High-grade E1 and Low-
21 grade E2 under s. 269TAC(2)(c) of the Act using the cost of manufacture of
22 the exported goods and SG&A and profit from domestic sales of Low-grade
23 D1. Customs considers those constructed prices require adjustment in terms
24 of s. 269TAC(9) of the Act to ensure fair comparison to the export prices.

25 7.4 LGI

26 7.4.1 Export Price

27 During the investigation period, LGI purchased low-grade ERW CHS from a
28 Korean manufacturer and sold it to an Australian distributor.

29 Customs concluded, on the basis of the information and documentation from
30 LGI, and information from the manufacturer, that LGI was the exporter of the
31 GUC to the distributor because:

32 the manufacturer established the price with LGI without having
33 regard to the market into which LGI might sell the goods;

34 the manufacturer had no pre-contractual knowledge of the
35 Australian customer;

36 the manufacturer had no pre-contractual knowledge of the price of
37 sales by LGI;

1 there were no contracts or agreements in place between the
2 manufacturer and LGI in relation to sales to LGI's Australian
3 customer; and

4 LGI was responsible for arranging and paying for ocean freight.

5 Customs examined the transactions and was satisfied that the amount
6 invoiced by LGI was the price paid or payable by the Australian customer.

7 Customs concluded that the transactions between LGI and its Australian
8 customer were arms length under s. 269TAA of the Act.

9 Customs considers that the Australian customer is the importer of the GUC.
10 The customer had beneficial ownership of the goods at the time of their arrival
11 within the limits of the port in Australia at which they landed.

12 Customs is of the view that:

13 the goods have been exported to Australia otherwise than by the
14 importer and have been purchased by the importer from the
15 exporter; and

16 the purchases of the goods by the importer were arms length
17 transactions.

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

21 **7.4.2 Normal value**

22 Domestic sales

23 LGI did not make any domestic sales of like goods during the investigation
24 period so it is not possible to establish a normal value under s. 269TAC(1) of
25 the Act using domestic sales by LGI.

26 Sales by other sellers

27 During the investigation, Customs gathered sufficient information on domestic
28 sales of like goods by other sellers in the Korean market to establish a normal
29 value for ERW CHS exported by LGI under s. 269TAC(1) of the Act using
30 domestic sales data for those like goods. That domestic sales information has
31 been brought into the LGI normal value calculations at the cash, packed FOB
32 level.

33 Adjustments

34 Customs considered whether adjustments were required to ensure the normal
35 values were properly comparable with export prices. As noted above,
36 Customs has used domestic sales information at the cash, packed FOB level

1 from another seller as a basis for normal value calculations. Because credit
2 terms applicable to LGI's sales to its customer are letter of credit at sight,
3 Customs considers this is indicative of export prices that reflect 'cash' sales so
4 does not consider an adjustment is necessary.

5 **7.5 DAEYANG**

6 **7.5.1 Export Price**

7 The Korean trading company, Daeyang, sold ERW CHS to Australia that it
8 sourced from two Korean manufacturers. Customs considers that Daeyang is
9 the exporter of goods as Daeyang:

10 negotiates and determines the final selling price with the Australian
11 customer;

12 finalises shipping arrangements;

13 is identified as the shipper on the bill of lading; and

14 invoices and receives payment from the Australia customer.

15 During the investigation period, Daeyang sold three grades of low-grade ERW
16 CHS to one Australian importer.

17 During Customs' visit to the Australian importer, Customs did not find any
18 evidence indicating that the transactions between Daeyang and its customer
19 were not arms length in terms of s.269TAA of the Act.

20 Customs sought to verify information with Daeyang in relation to the export
21 transactions but Daeyang did not co-operate with the investigation. As a
22 result, Customs recommends that export prices be determined under
23 s.269TAB(3), having regard to all relevant information.

24 Customs has calculated a weighted average export price for ERW CHS
25 exported by Daeyang over the investigation period. Customs converted the
26 CFR (cost and freight) invoice prices to the Australian customer obtained from
27 the importer to Korean won and deducted an amount for ocean freight. As
28 Daeyang did not provide information to the investigation, Customs used the
29 weighted average ocean freight cost incurred on direct exports during the
30 investigation period by a Korean manufacturer.

31 **7.5.2 Normal value**

32 As Daeyang did not provide information for the investigation, Customs is
33 satisfied that sufficient information has not been furnished or is not available
34 to enable the normal value of goods to be ascertained under s.269TAC(1) or
35 s.269TAC(2) of the Act. Therefore, Customs proposes that the Minister
36 determine a normal value for exports by Daeyang under s.269TAC(6) of the
37 Act.

1 Normal value - conclusion

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

4 **7.6 DUMPING MARGINS**

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

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

8 ECONOMIC CONDITION OF THE INDUSTRY

8.1 APPLICANT'S CLAIMS

The applicant claims that the financial and material impacts of injury from dumped imports have been apparent from 2002 calendar year onwards. As a result, we analysed the condition of the Australian industry from January 2001 to December 2003. The applicant claims that the dumped imports have caused material injury through:

a substantial reduction in market share

price suppression

price depression

price undercutting

a significant loss of sales

a significant loss of profits

decline in profitability

decline in average profits

substantial negative impact on manufacturing and unit cost efficiencies through lost sales⁴

8.2 CUSTOMS' APPROACH

The financial data presented in the application was for OSMM, the oil and gas pipe manufacturing division of OneSteel Limited, as the applicant considers this business unit to constitute the Australian industry.

The significant majority of sales of high-grade pipe are made directly to external customers by OSMM but, as Customs has noted previously in this report, almost all of the sales of low-grade pipe are to OSD and are actually intercompany transfers rather than sales transactions.

Customs therefore also obtained and verified certain OSD costs and revenues to allow some analysis of injury factors. Customs concluded, as a result of its analysis of available OSD sales and cost data, that OSD had suffered price suppression, reduced profits and reduced profitability at least to the same degree as OSMM in respect of low-grade sales.

Customs considers that the analysis of OSD data did not indicate a situation contrary to that demonstrated by the analysis of OSMM data. Customs has used OSMM data to assess injury claims in respect of low-grade sales; however, Customs notes that a more complete analysis could have been done if the Australian industry data was fully integrated.

⁴ Non-confidential application, page 35

1 Customs' analysis involved examining injury separately for low-grade and
 2 high-grade ERW CHS. Customs' detailed analysis forms **Confidential**
 3 **Appendix 1.**

4 **8.2.1 Price effects**

5 8.2.1.1 Price undercutting

6 Price undercutting occurs when imported product is sold at a price below that
 7 of the Australian product.

8 Documentation was provided in the application to support the claim that
 9 OSMM's transfer and selling prices for low-grade products had been undercut
 10 by the prices of allegedly dumped ERW CHS from Korea. It provided details
 11 of targeted rebates issued to distributors, both integrated and independent, in
 12 regional areas to enable the distributors to compete with the allegedly dumped
 13 goods from Korea.

14 Customs sought to compare the industry's transfer and selling prices with
 15 prices for similar sales of imported goods made under the same conditions
 16 such as timing and volume, at the same level of trade and through the same
 17 or similar distribution channels.

18 Customs' analysis identified evidence that OSMM's transfer and selling prices
 19 of low-grade ERW CHS were significantly undercut by dumped low-grade
 20 ERW CHS exported from Korea. The analysis also showed that the prices of
 21 low-price undumped low-grade ERW CHS from Korea also undercut the
 22 industry's transfer and selling prices during the investigation period.

23 Customs' analysis also identified evidence that OSMM's selling price of high-
 24 grade ERW CHS was significantly undercut by undumped high-grade ERW
 25 CHS exported from Korea.

26 8.2.1.2 Price depression

27 Price depression occurs when there is a reduction in prices. Customs used
 28 OSMM's weighted average net prices to assess price depression.

29 The low-grade transfer and selling prices increased over the injury period as
 30 shown in the table below:

Period	2001	2002	2003
Low-Grade Price Index	100	101	110

31 The high-grade selling price fell over the injury period as shown in the table
 32 below:

Period	2001	2002	2003
High-Grade Price Index	100	77	82

1 The overall average 'price' for both grades fell over the injury period as shown
2 in the table below:

Period	2001	2002	2003
Total Price Index	100	86	95

3 Customs noted that, while overall price depression was evident, indications of
4 price depression were actually only in respect of high-grade sales.

5 8.2.1.3 Price suppression

6 Price suppression is the inability to raise prices in line with cost increases or
7 when the margin between costs and selling price is reduced. Customs used
8 OSMM's weighted average net prices and unit cost to make and sell (CTMS)
9 to assess price suppression.

10 The low-grade transfer and selling prices increased over the injury period
11 while the low-grade CTMS also increased, but at a lesser rate resulting in no
12 price suppression, as shown in the table below:

Period	2001	2002	2003
Low-Grade Price Index	100	101	110
Low-Grade CTMS Index	100	107	107

13 The high-grade selling price fell over the injury period while the high-grade
14 CTMS also fell, but at a lesser rate resulting in price suppression, as shown in
15 the table below:

Period	2001	2002	2003
High-Grade Price Index	100	77	82
High-Grade CTMS Index	100	76	88

16 The overall average 'price' for both grades fell over the injury period while the
17 average CTMS increased, resulting in price suppression, as shown in the
18 table below:

Period	2001	2002	2003
Total Price Index	100	86	95
Total CTMS Index	100	104	103

19 Customs noted that, while overall price suppression was evident, indications
20 of price suppression were actually only in respect of high-grade sales.

8.2.2 Volume effects

8.2.2.1 Volume

It was claimed in the application that OSMM had suffered a loss of sales volume and that the significant growth in the volume of dumped imports represented a substantial lost opportunity in terms of both the sales and associated efficiencies. The applicant explained that it suffered a loss of sales volume because it chose to maintain its selling prices in relation to its costs and consequently lost sales to dumped imports from Korea.

Low-grade transfer and sales volume decreased over the injury period as shown in the table below:

Period	2001	2002	2003
Low-Grade Sales Volume Index	100	93	92

High-grade sales volume increased over the injury period as shown in the table below:

Period	2001	2002	2003
High-Grade Sales Volume Index	100	101	177

Total sales volume for both grades increased over the injury period as shown in the table below:

Period	2001	2002	2003
Total Sales Volume Index	100	97	136

Customs noted that, while overall there was no loss of sales volume evident, indications of loss of sales volume were nevertheless apparent in respect of low-grade sales.

8.2.2.2 Market share

Customs' analysis of market share was performed using information from Customs' database and sales information obtained from OSMM, OSD and other importers of ERW CHS from Korea visited as part of the investigation. Customs also obtained information from importers of ERW CHS from other countries.

To address interested parties concerns about the applicant injuring itself by the importation of dumped product, Customs has separated from the imports those imports by OSMM and OSD, imported directly or through other importers, which were within the range of the goods. OSD market share comprises its imports of ERW CHS.

In relation to low-grade ERW CHS, Customs noted the following movements in market share:

LOW-GRADE	Change in 2002 from 2001	Change in 2003 from 2002	Total Change
OSMM share of market	-16%	-6%	-22%
OSD imports share of market (undumped)	-1%	+4%	+3%
Market share of dumped goods from Korea	+3%	+10%	+13%
Market share of undumped goods from Korea	+7%	-6%	+1%
Market share of goods from other countries	+7%	-2%	+5%

- 1 In relation to high-grade ERW CHS, Customs noted the following movements
2 in market share:

HIGH-GRADE	Change in 2002 from 2001	Change in 2003 from 2002	Total Change
OSMM share of market (production and imports)	-54%	+31%	-23%
Market share of undumped goods from Korea	+31%	-23%	+8%
Market share of goods from other countries	+23%	-8%	+15%

- 3 In relation to all ERW CHS, Customs noted the following movements in
4 market share:

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 undumped goods from Korea	+20%	-17%	+3%
Market share of goods from other countries	+17%	-6%	+11%

5 **8.2.3 Profit effects**

6 **8.2.3.1 Profit**

- 7 Low-grade transfer and sale 'profit', while decreasing in 2002, increased over
8 the whole injury period as shown in the table below:

Period	2001	2002	2003
Total Profit Index	100	-118	202

- 9 High-grade profit decreased over the injury period as shown in the table
10 below:

Period	2001	2002	2003
Total Profit Index	100	83	85

1 Total profit for both grades decreased over the injury period as shown in the
2 table below:

Period	2001	2002	2003
Total Profit Index	100	63	97

3 Customs noted that, while overall there was a small reduction in profit,
4 indications of reduced profit were actually only in respect of high-grade sales.

5 8.2.3.2 Profitability

6 Low-grade 'profitability' increased over the period of 2001 to 2003. The
7 percentage change was in the range of 1 to 5 percentage points.

8 High-grade profitability decreased over the period of 2001 to 2003. The
9 percentage change was in the range of 5 to 10 percentage points.

10 Overall profitability for both grades decreased over the injury period. The
11 percentage change was in the range of 1 to 5 percentage points.

12 Customs noted that indications of reduced profitability were only apparent in
13 respect of high-grade sales.

14 **8.2.4 Other economic factors**

15 While the applicant did not claim that injury was evident in the following areas,
16 Customs undertook an assessment of these other economic factors:

17 8.2.4.1 Assets

18 There has been a decrease in the level of assets over the injury period,
19 however this is as a result of a transfer to head office.

20 8.2.4.2 Capital Investment

21 There has been a considerable increase in capital investment over the injury
22 period. Customs noted an associated increase in depreciation, however this
23 was offset by the reduction of other costs over the injury period.

24 8.2.4.3 R&D Expense

25 The expenditure on research and development has not changed significantly
26 over the injury period.

1 8.2.4.4 Revenue

2 Sales revenue has increased over the injury period

3 8.2.4.5 Capacity Utilisation

4 Capacity utilisation has increased over the injury period.

5 8.2.4.6 Employment

6 Employment levels have increased over the injury period.

7 8.2.4.7 Stocks

8 Inventory levels have remained fairly constant over the injury period.

9 8.2.4.8 Wages

10 Expenditure on salaries and wages has increased over the injury period.

11 **8.2.5 Conclusion**

12 As a result of the injury analysis undertaken, Customs is satisfied that the
13 Australian industry producing ERW CHS has suffered the following forms of
14 injury:

- 15 price undercutting;
- 16 price depression;
- 17 price suppression;
- 18 reduced profits;
- 19 reduced profitability; and
- 20 loss of market share.

21 The analysis revealed that volume injury was not evident in the form of loss of
22 sales volume or value when comparing the sales in 2003 to those in 2001.
23 However.

24 Customs noted that the indications of injury above were only apparent in
25 respect of high-grade sales, except for 'price' undercutting and loss of market
26 share, which were evident for both high-grade and low-grade.

9 HAS DUMPING CAUSED MATERIAL INJURY

Customs concluded earlier in this report that the Australian industry has suffered injury and that a proportion of the low-grade ERW CHS exported from Korea was dumped. This section considers whether there is a causal link between the dumped Korean ERW CHS and the injury suffered by the Australian industry, and whether that injury is material.

9.1 AUSTRALIAN INDUSTRY'S CLAIMS

The arguments in relation to causal link put forward by the industry in its application, during the industry visits and subsequent to those visits focussed mainly on the claim that the significant injury sustained by the Australian industry coincided with the influx of allegedly dumped imports from Korea. Claims included:

OneSteel's market share has been severely impacted by the influx of dumped product into the market, resulting in price depression and a substantial loss of potential sales volume. The market share decline has coincided with the substantial growth in the market share of dumped product from Korea.

OneSteel's apparent recovery in market share in 2002 has been to the detriment of the selling price, profitability and EBIT achieved by OneSteel as it has been forced to substantially discount product to compete with offers for product at dumped prices.

OneSteel's share has been substantially impacted by the offer and supply of dumped imports that have undercut OneSteel's prices and, as a result, OneSteel has seen a substantial increase in the effects of price suppression and declines in profit and profitability.

OneSteel suffered price depression on specific projects as a result of the presence of offers of allegedly dumped product in the market, even when it did not ultimately lose sales to imported products.

OneSteel suffered price depression, loss of sales volume and profits as a result of losing sales to dumped Korean imports on one particular high-grade ERW CHS project.

The ASA's conclusion that OneSteel "agreed to an Enhanced Project By-Law Scheme (EPBS) for the SeaGas project because it must have been unable to supply eligible goods in the ordinary course of trade" was incorrect. OneSteel was not aware of any contact from the administering body, AusIndustry, to discuss the application or OneSteel's manufacturing capabilities prior to the granting of EPBS status for the SeaGas project.

OneSteel opposed a number of Tariff Concession Orders (TCO) submitted in relation to products imported for the SeaGas project on

1 the basis that the material for which the TCO was sought was
2 product OneSteel was capable of manufacturing.

3 **9.2 CLAIMS BY INTERESTED PARTIES**

4 **9.2.1 East Coast and Metalcorp**

5 East Coast and Metalcorp claimed that OneSteel became the only Australian
6 supplier of ERW CHS when it acquired the assets of Pipeline Supplies of
7 Australia (Pipeline Supplies). They stated that the former customers of
8 Pipeline Supplies did not wish to deal with Onesteel and sought alternative
9 sources of the product. East Coast stated that the increase in volumes of
10 imported ERW CHS coincided with the cessation of Pipeline Supplies.

11 **9.2.2 CMC**

12 CMC claimed that end users had been pushing for greater competition within
13 the Australian market since the takeover of Pipeline Supplies and that a
14 number of independent distributors had established themselves as a result of
15 the change.

16 **9.2.3 Australian Steel Association**

17 The ASA made the following claims on behalf of Capital and Van Leeuwen:

18 OneSteel has a relationship with a Korean exporter nominated in
19 this investigation, which it did not disclose in the application and
20 which impacts on injury and causal link claims by OneSteel.

21 OneSteel imported allegedly dumped GUC as well as ERW CHS
22 outside the nominated size range from the Korean exporter during
23 the investigation period. Further, OneSteel had a manufacturing
24 licensing agreement for the manufacture of "Ultrapipe" brand of
25 ERW CHS for importation by OneSteel.

26 OneSteel has placed an order with another of the three Korean
27 manufacturers visited during the investigation for a quantity of like
28 goods to the GUC since the commencement of the investigation.

29 Based on rough estimates calculated by the Association, OneSteel
30 would not have had the capacity to satisfy the monthly project
31 requirements of the SeaGas and TXU projects that occurred during
32 the period October 2002 to February 2003 so it cannot sustain the
33 claim that it was injured by imports from Korea. Therefore,
34 OneSteel is injuring itself by not installing additional capacity to
35 satisfy market needs.

36 OneSteel has no "national third party distributor foe"⁵, is not
37 prepared to supply locally produced ERW CHS to ASA members

⁵ ASA submission, p. 5.

1 and has “denied supply” to Van Leeuwen since June 2001. Further,
2 OneSteel has a market monopoly in the distribution market in which
3 it engages in restrictive market practices.

4 OneSteel’s injury is the result of the strengthening of the Australian
5 dollar, which “has enabled emerging players the opportunity to
6 ‘shandy’ or solely rely on imports”⁶.

7 OneSteel’s statements made in an industry journal dated Jan/Feb
8 2004 are not consistent with and are more positive than the
9 situation presented in the company’s application to Customs. This
10 includes claims that OneSteel’s prices have increased since June
11 2001.

12 OneSteel’s half-year results to December 2003 also indicate a
13 different view than that presented in the company’s application to
14 Customs.

15 Any injury suffered by OneSteel is the result of its strategy to
16 “discourage the ‘emergence’ of the other local producer, Orrcon,
17 rather than having to discount prices to meet import competition”⁷

18 **9.2.4 SeAH and LGI**

19 SeAH and LGI claimed:

20 SeAH became involved in the supply of API 5L X70 grade ERW
21 CHS because the project manager, SCL JV, was not satisfied that
22 OneSteel could produce sufficient volume of ERW CHS for the
23 SeaGas project in the required timeframe. Therefore any injury
24 caused by the export of ERW CHS by SeAH could not have caused
25 injury to the Australian industry.

26 **9.2.5 Spie Capag Lucas Joint Venture & Spie Capag s.a**

27 Spie Capag Lucas Joint Venture & Spie Capag s.a. France lodged a
28 submission addressing OneSteel’s claims on material injury and causal link.
29 In the submission, they claimed:

30 SCL JV believes there was no injury to the Australian industry as a
31 result of the import of ERW CHS for the SeaGas project as
32 OneSteel did not have the capacity to manufacture sufficient
33 volume within the required timeframe. It claimed that, even though
34 OneSteel may have lost sales, there was no loss of sales of goods
35 produced in Australia by OneSteel, the Australian industry.

36 **9.3 CUSTOMS’ CONSIDERATION OF CAUSATION**

37 In order to establish whether the Australian industry has suffered injury,
38 Customs considered it necessary to analyse not only the total Australian

⁶ ASA submission, p. 6.

⁷ ASA submission, p. 13.

1 market for ERW CHS but also the “low” and “high” grade market sectors
2 within that market.

3 It is important to note that it is necessary to establish a link between the injury
4 suffered by the Australian industry producing like goods (all grades of ERW
5 CHS) and the dumped imports (which were only low-grade).

6 Customs has established that as a result of the distinct markets for low and
7 high-grade ERW CHS the injury experienced in high-grade cannot be
8 attributable to the dumping, which has only occurred in the low-grade market.
9 Further, where there is injury overall for a particular injury indicator, which is
10 the result of injury to both low and high-grade, the proportion of injury, which
11 is high-grade injury, can also not be attributable to dumping. Therefore only
12 when there is injury overall and injury to low-grade for a particular injury
13 indicator, can any of that injury be attributable to dumping.

14 **9.3.1 Dumping**

15 Customs has established that two Korean suppliers, who exported only low-
16 grade, have exported ERW CHS to Australia at dumped prices during the
17 investigation period. Dumping margins calculated for those exporters were in
18 the range 0 to 10%.

19 Customs has established that one Korean supplier, who exported only low-
20 grade, has exported ERW CHS to Australia at undumped prices during the
21 investigation period.

22 Customs has established that one Korean supplier, who exported only low-
23 grade, has exported ERW CHS to Australia at dumped prices, which were
24 negligible, during the investigation period.

25 Customs has established that one Korean supplier, who exported both low
26 and high-grade, has exported ERW CHS to Australia at dumped prices, which
27 were negligible, during the investigation period. Customs notes that the
28 dumping margin for this exporter reflects all ERW CHS. As a consequence
29 the low-grade product for this exporter is considered undumped for the
30 purpose of this causation analysis.

31 **9.3.2 Volume of dumped imports**

32 The dumped goods constituted approximately 16% of all ERW CHS exported
33 to Australia from Korea during the investigation period and 39% of all “low-
34 grade” goods exported in that period from Korea.

35 The volume of dumped imports from Korea, when expressed as a percentage
36 of total Australian ERW CHS imports (from all countries) during the
37 investigation period, was approximately 9%. The volume of dumped imports
38 during the investigation period is not negligible in terms of s. 269TDA(4) of the
39 Act.

1 The dumped imports constituted approximately 3% of the total Australian
2 market for all ERW CHS during the investigation period.

3 **9.3.3 Price effects**

4 Customs found that the Australian market for both low and high-grade ERW
5 CHS are relatively transparent in that both suppliers and their customers are
6 aware of prices. Customs also found that the markets are quite price
7 sensitive, with orders being awarded primarily on the basis of price.

8 9.3.3.1 Price undercutting

9 Customs found price undercutting injury in both high-grade and low-grade
10 markets, noting that an overall analysis is not reasonable given that the two
11 markets are so distinct. Customs notes, as discussed above that any injury to
12 high-grade ERW CHS cannot be attributable to dumping.

13 Customs' analysis identified evidence that OSMM's transfer and selling prices
14 of low-grade ERW CHS were undercut by dumped low-grade ERW CHS
15 exported from Korea. The analysis also showed that the selling prices of low-
16 price undumped low-grade ERW CHS from Korea also undercut the industry's
17 transfer and selling prices during the investigation period.

18 Customs noted that there was no obvious pattern showing selling prices of
19 dumped low-grade ERW CHS exported from Korea consistently undercutting
20 those of undumped low-grade ERW CHS exported from Korea, however the
21 prices would appear to be in a similar range. In addition, Customs established
22 that OSD was able to source its low-grade ERW CHS from Korea at
23 undumped prices directly or via Australian importers for less than it could
24 purchase from OSMM.

25 Customs was not able to obtain sufficient Australian sales information relating
26 to importers of low-grade ERW CHS from other countries. However, from
27 data obtained from Customs' database it would seem export prices of low-
28 grade ERW CHS from other countries when compared with those from Korea
29 would have enabled the importers of low-grade ERW CHS from other
30 countries to also undercut OSMM's selling prices.

31 9.3.3.2 Price depression

32 As noted earlier in this report, Customs was satisfied that OSMM suffered
33 injury in the form of price depression on sales of all ERW CHS during the
34 injury period. However, when analysed on a grade basis (low and high-
35 grades), it was apparent that price depression had been sustained on sales of
36 high-grade products only. The average transfer and selling prices of low-
37 grade products increased by 10% over the injury period while the average
38 prices of high-grade decreased by 18% over the injury period.

39 In order to link the injury suffered by the industry producing all grades of ERW
40 CHS and the dumped imports, Customs must consider whether the prices of

1 the low-grade dumped imports could have influenced the prices of high-grade
2 products resulting in significant depression of those prices over the injury
3 period. As discussed above, as the markets for low and high-grade are so
4 distinct, to conclude that the low-grade dumped imports could have influenced
5 the prices in the high-grade market would be unreasonable.

6 9.3.3.3 Price suppression

7 Customs is satisfied that OSMM suffered injury in the form of price
8 suppression when prices and costs were assessed on the basis of all ERW.
9 When analysed on a grade basis, Customs was also satisfied that price
10 suppression occurred over the whole of the injury period for high-grade ERW
11 CHS. However Customs analysis did not show price suppression on low-
12 grade ERW CHS over the injury period.

13 As discussed above, as the markets for low and high-grade are so distinct, to
14 conclude that the low-grade dumped imports could influence the price in the
15 high-grade market (to in turn cause price suppression) would be
16 unreasonable.

17 **9.3.4 Volume effects**

18 9.3.4.1 Volume

19 Customs has stated previously that OSMM did not suffer injury in the form of
20 lost sales volume over the injury period.

21 When OSMM's volume was analysed on the basis of low and high-grade
22 sales, it was evident that the increase in volume had occurred only in the high-
23 grade project market sector.

24 The industry maintains that its decision to increase prices of low-grade ERW
25 CHS in 2002 and 2003 resulted in a loss of volume because it was competing
26 with allegedly dumped goods in the market. The volume analysis shows that
27 OSMM's volume for low-grade product decreased by 8% over the injury
28 period.

29 Customs examined the link between OSMM's loss of volume and the dumped
30 imports. It was evident from the analysis that OSMM's low-grade volume
31 during the investigation period was lower than its pre-injury level and that the
32 decrease occurred at a time when the volume of goods from exporters of
33 dumped imports increased. However there was no loss in volume to the
34 product overall, therefore it can not be concluded that dumping is causing
35 injury to all ERW CHS.

36 9.3.4.2 Loss of market share

37 Customs is satisfied that OSMM has lost considerable market share over the
38 injury period.

1 When OSMM's market share was analysed on the basis of low and high-
2 grade sales, it was evident that the decrease in market share had occurred to
3 relatively the same degree in both the low-grade and high-grade market
4 sectors. As noted above, due to the distinct markets, dumping of low-grade
5 ERW CHS cannot cause injury to high-grade (only injury to low-grade can
6 possibly be attributable to dumping).

7 Customs' analysis also showed an increase in the volume of dumped imports
8 of low-grade ERW CHS from Korea and the market share held by those
9 goods over the injury period.

10 It would seem reasonable to conclude that, in light of the evident price
11 undercutting, OSMM's decision to maintain price and profitability has resulted
12 in injury in the form of lost market share.

13 Customs considers that it is possible in some cases for dumped imports with a
14 small market share to cause material injury to an Australian industry.
15 However, Customs considers materiality on a case-by-case basis.

16 Customs considers it reasonable to conclude that there is a link between the
17 industry's loss of market share in low-grade and the increase in market share
18 held by dumped imports from Korea over the period. However as discussed
19 later in this section, Customs also considers that the market share was
20 impacted by factors other than dumped goods.

21 **9.3.5 Loss of profits and profitability**

22 Customs' profit and profitability assessment showed that there was a
23 downward movement in profits and profitability from 2001 to 2003. However,
24 when OSMM's data was analysed on the basis of low and high-grade sales, it
25 was evident that the reduction in profits and profitability had occurred only in
26 the high-grade market sector.

27 As noted above, due to the distinct markets, dumping of low-grade ERW CHS
28 cannot cause injury to high-grade ERW CHS.

29 **9.4 OTHER POSSIBLE CAUSES OF INJURY**

30 Section 269TAE(2A) requires consideration of whether injury to an industry is
31 being caused or threatened by a factor other than dumped imports.

32 The following discussion includes the factors that interested parties consider
33 to be significant in causing injury to the Australian industry.

34 **9.4.1 Market share and prices of imports from Korea that are not 35 dumped**

36 The low-grade ERW CHS imported from Korea that was not dumped
37 accounted for 84% of the volume from that country and 45% of imports from
38 all sources during the investigation period. The undumped Korean imports of

1 low-grade ERW CHS represented 5% of the low-grade ERW CHS in the
2 Australian market during the investigation period.

3 As noted in the price effects section above, it was apparent from the price
4 undercutting analysis that the prices of low priced, undumped imports from
5 Korea also undercut the industry's transfer and selling prices and gained a
6 percentage of the market from OSMM in the investigation period compared
7 with the pre-injury period.

8 **9.4.2 Market share and prices of imports from countries other than** 9 **Korea**

10 Imports of low-grade ERW CHS from other countries accounted for 46% of
11 imports from all sources during the investigation period and 18% of the
12 Australian market for low-grade ERW CHS over the investigation period.

13 Customs was not able to obtain sufficient Australian sales information relating
14 to imports of low-grade ERW CHS from other countries. However, from data
15 obtained from Customs' database it would seem that the export prices of low-
16 grade ERW CHS from other countries, compared with those from Korea,
17 would have enabled the importers to also undercut OSMM's selling prices.

18 It is apparent from the market share analysis that the share held by imports
19 from other countries was higher in the investigation period than in the pre-
20 injury period, and is considerably more than the share held by dumped
21 imports from Korea. It is therefore reasonable to consider that the industry
22 has also been injured by imports from other countries.

23 **9.4.3 OneSteel's imports of ERW CHS**

24 Some interested parties cited OSD's importations of allegedly dumped ERW
25 CHS from Korea as a factor contributing to the industry's injury.

26 During the investigation, Customs established that OSD was an importer of
27 not insignificant volumes of the GUC, including a proprietary product, from
28 Korea during the investigation period and therefore gathered information for
29 injury and causal link analysis.

30 During the investigation period, OSD sourced its low-grade ERW CHS from a
31 Korean manufacturer found to be exporting undumped ERW CHS.

32 As noted previously, Customs' price undercutting analysis indicated that
33 OSMM's prices were undercut by the prices of imports to OSD. That is, OSD
34 was able to source its low-grade ERW CHS from Korea at undumped prices
35 directly or via Australian importers for less than it could purchase from OSMM.

36 Customs considers that OSD's decision to purchase undumped product from
37 Korea contributed to the injury suffered by OSMM.

1 **9.4.4 Contraction in demand/changes in consumption patterns**

2 The injury suffered by the Australian industry cannot be attributed to a
3 contraction in demand or changes in consumption patterns.

4 As discussed previously in this report, the Australian market for low-grade
5 ERW CHS increased quite significantly over the injury period. One of the
6 industry's primary claims is that it was not able to share in the benefits flowing
7 from an increase in market size such as increased sales volumes,
8 manufacturing efficiencies and profits.

9 **9.4.5 Restrictive trade practices and competition between foreign and** 10 **Australian producers**

11 The ASA, on behalf of certain importers and distributors cited OneSteel's
12 distribution arrangements as another factor causing injury to the Australian
13 industry. The Association claimed OneSteel had no "national third party
14 distributor foe"⁸, was not prepared to supply locally produced low-grade ERW
15 CHS to its members and has a market monopoly in the distribution market in
16 which it engages in restrictive market practices.

17 Customs has considered claims relating to Australian industry's distribution
18 arrangements and its response to those claims. Customs understands that
19 no customer is restricted from purchasing low-grade ERW CHS from the
20 Australian industry. It also understands that, despite the fact that not all
21 potential customers can trade directly with the Australian industry, the
22 arrangement does not restrict them from purchasing low-grade ERW CHS
23 produced by them.

24 Interested parties have also claimed that OneSteel is causing injury to itself
25 because its distribution policies have forced them to import low-grade ERW
26 CHS in order to remain competitive with the Australian industry.

27 While Customs has received a number of claims on this issue, it has not been
28 provided with any evidence to support the claim that the Australian industry's
29 distribution policies have contributed to any injury suffered by the industry.

30 **9.4.6 Developments in technology**

31 Customs found no evidence that developments in technology contributed to
32 injury suffered by the Australian industry producing low-grade ERW CHS.

33 **9.4.7 Export performance and productivity of the Australian industry**

34 Customs found no evidence that the export performance and productivity of
35 the Australian industry contributed to the injury it suffered.

⁸ ASA submission, p. 5.

1 9.5 CONCLUSIONS

2 Customs is of the view that a number of factors have combined to cause
3 injury to the Australian industry producing ERW CHS.

4 Customs recognises that, for the Minister to impose dumping duties, where
5 injury could be caused by a number of factors, the injury caused by dumping
6 must, in itself, be material.

7 As noted above, due to the distinct markets for high and low-grade ERW
8 CHS, dumping of low-grade ERW CHS cannot cause injury to high-grade
9 (only injury to low-grade can possibly be attributable to dumping).

10 While Customs can attribute some of the loss of market share to the dumped
11 goods, it cannot attribute the injury the industry has experienced on all ERW
12 CHS in the forms of price depression, price suppression, and reduced profits
13 and profitability to the dumped goods, as this injury was experienced in the
14 high-grade market sector while the dumping occurred only in the low-grade
15 market sector.

16 Also after consideration of the volume of imports from undumped Korean
17 sources and other countries (91% of all imports) that have also undercut the
18 selling prices of the Australian industry and the fact that their share of the
19 Australian market during the investigation period (23%) is significantly higher
20 than that of the dumped goods (3%) and considering the other causal factors
21 Customs concludes that the injury suffered by the Australian industry in the
22 form of loss of market share as a result of the importation of dumped low-
23 grade ERW CHS from Korea is not properly categorised as material.
24 Therefore Customs considers that the injury, if any, to the Australian Industry
25 caused by dumping is negligible.

26 Pursuant to s269TDA(13) Customs will be required to terminate the
27 investigation where the CEO is satisfied that the injury to an Australian
28 industry that has been caused by dumping is negligible.

10 WILL DUMPING AND MATERIAL INJURY CONTINUE

In the case where the Minister is satisfied that material injury has been caused to the industry, anti-dumping measures may be imposed on future exports of the goods, but only if the Minister is also satisfied that future exports of like goods may be dumped.

10.1 CLAIMS BY IMPORTERS AND EXPORTERS**10.1.1 East Coast**

East Coast stated that, for several months, global steel shortages had resulted in Korean manufacturers not offering to sell ERW CHS to Australia. According to East Coast, the Korean steel producer POSCO had placed quotas on hot rolled coil. Korean ERW CHS manufacturers are concentrating on satisfying domestic demand and supplying export markets only if supplies allowed. The Australian industry's injury is therefore unlikely to continue.

10.1.2 Metalcorp

Metalcorp advised that steel mills in Korea were not offering ERW CHS to Australia due to the steel shortages that have emerged in recent months. However, in Metalcorp's view, there are some signs that the supply shortages caused by demand for steel in China are easing and that prices have levelled out.

10.1.3 CMC

CMC stated that the current global conditions for hot-rolled coil were resulting in a sharp increase in prices from Korea and shortages in supply of steel pipe from Korea.

CMC suggested that the current conditions in relation to price and availability are likely to continue for anywhere between 2 to 10 years.

10.1.4 Other interested parties

Other interested parties, including The Australian industry believe there is too much uncertainty in the market, particularly in relation to China's level of demand for steel products, to make any predictions about the future for ERW CHS.

10.2 CUSTOMS' ASSESSMENT

As dumping did not cause material injury, Customs did not consider it necessary to consider whether dumping and material injury will continue.

11 NON-INJURIOUS PRICE

11.1 INTRODUCTION

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but lesser duty may be applied if it is determined that it is sufficient to remove the injury. A non-injurious price (NIP) is calculated for this purpose. The NIP provides the mechanism whereby this lesser duty provision is given effect. The NIP is the FOB price that would be sufficient to remove the injury caused to the Australian industry by the dumping.

11.2 UNSUPPRESSED SELLING PRICE

The Australian industry was asked to give consideration to the most appropriate method to calculate a USP.

The Australian industry raised concerns over the use of domestic selling prices from a period prior to dumping, given the influence of the price of the main raw material HRC on the sales price and the recent movement in the cost of HRC.

The Australian industry indicated that it felt a determination of gross margins based on returns from projects unaffected by dumping and application of that gross margin to present HRC prices was the most appropriate approach to establish a USP.

The Australian industry advised, in the context of Customs three-point hierarchy that it considers the use of CTMS plus an appropriate profit margin based on its pre-injury performance is the most reliable measure.

11.3 FINDINGS

Customs has calculated a USP for low-grade ERW CHS using the Australian industry's most recently verified CTMS plus a profit rate achieved in a period unaffected by dumping.

Customs calculated a NIP for low-grade ERW CHS by deducting the post-FOB exportation costs of the most efficient representative importer from the USP.

Customs noted that the NIP so calculated is higher than the normal values for all exporters of dumped low-grade ERW CHS.