



CUSTOMS ACT 1901 - PART XVB

TRADE MEASURES REPORT NO. 55

HOT ROLLED STRUCTURAL SECTIONS

FROM

**THE REPUBLIC OF KOREA, THE REPUBLIC OF
SOUTH AFRICA AND THAILAND**

May 2002

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1 ABBREVIATIONS

ASA	Australian Steel Association Inc
BHP	BHP Limited
Cape Gate	Cape Gate (Pty) Ltd
CMC	CMC Australia Pty Ltd
Customs	Australian Customs Service
FOB	free-on-board
GUC	goods under consideration
Highveld	Highveld Steel and Vanadium Corp Ltd
INI	INI Steel Company
Korea	Republic of Korea
ISCOR	ISCOR Iron and Steel
Macsteel	Macsteel International Far East Limited
Market Mills	OneSteel Market Mills
Mpa	MegaPascal
MTC	MetalCorp Pty Ltd
Minister	Minister for Justice and Customs
NIP	non-injurious price
OneSteel	OneSteel Manufacturing Pty Ltd
Oreport	Oreport (Pty) Limited
PAD	preliminary affirmative determination
Sanwa	Sanwa Pty Ltd
SEF	statement of essential facts
SCT	Siam Cement Trading
Smorgon	Smorgon Steel Mill
South Africa	Republic of South Africa
Stemcor	Stemcor (A/Asia) Pty Ltd
structural steel	hot rolled structural sections
Sumikin	Sumikin Bussan International (Australia) Pty Ltd
SYS	Siam Yamato Steel Co. Ltd
TMT	Thyssen Mannesmann Trading Pty Ltd
USP	unsuppressed selling price
Whyalla Steelworks	OneSteel Whyalla Steelworks
WTO	World Trade Organisation

2 SUMMARY

2.1 Overview

This report presents the results of the investigation by the Australian Customs Service (Customs) and the recommendations to the Minister for Justice and Customs (the Minister) into the alleged dumping of certain hot rolled structural sections (structural steel) exported to Australia from the Republic of Korea (Korea), the Republic of South Africa (South Africa) and Thailand.

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 Korea, South Africa and Thailand. OneSteel claimed that exports from Korea, South Africa and Thailand were dumped and causing material injury to the Australian industry.

Following an examination of the applicant's claims, Customs considered that there appeared to be reasonable grounds for the publication of a dumping duty notice and initiated the investigation on 30 November 2001. Notification of the investigation was through the newspaper on 30 November 2001 and Australian Customs Dumping Notice No. 2001/067. In the public notification, Customs advised that, to determine whether dumping had occurred it would examine exports of the goods to Australia from 1 October 2000 to 30 September 2001. This is the investigation period. Customs also notified that it would examine details of the Australian market for the period January 1998 to December 2001 for injury analysis. This is the injury period.

The goods under consideration are described as hot rolled structural sections. The goods are classified to tariff subheadings 7216.31.00, 7216.32.00, 7216.33.00 and 7216.40.00 of Schedule 3 to the *Customs Tariff Act 1995*.

The statement of essential facts (SEF) on which Customs has based its recommendation to the Minister was placed on the public record on 20 March 2002. After receiving submissions from interested parties responding to the SEF, Customs made a preliminary affirmative determination (PAD) to enable securities to be put in place under s.42 of the *Customs Act 1901*. The PAD was publicly notified on 15 April 2002.

2.2 Findings

Customs:

- found that there is an Australian industry producing like goods to the goods exported to Australia from Korea, South Africa and Thailand;
- found that export sales from Korea, South Africa and Thailand were arms length transactions with export prices being established having regard to all the circumstances of the exportations;
- established export prices for particular shapes of structural steel not exported from South Africa and Thailand during the investigation period;
- found that the Korean exporter sells like goods in the Korean domestic market in arms length transactions and in the ordinary course of trade - the

normal value has been established as the price paid for the like goods, taking into account adjustments for fair comparison;

- found that the South African exporter sells like goods in the South African domestic market in arms length transactions and in the ordinary course of trade - the normal value has been established as the price paid for the like goods, taking into account adjustments for fair comparison;
- found that the Thai exporter sells like goods in the Thai domestic market in arms length transactions and in the ordinary course of trade - the normal value has been established as the price paid for the like goods, taking into account adjustments for fair comparison;
- established normal values for particular shapes of structural steel sold in Korea and Thailand where information was not provided by the exporters;
- found that a comparison of the weighted average export prices and weighted average normal values resulted in dumping margins for the investigation period of 3.52% for all products from Thailand, 18.25% for all products from Korea and 42.6% for universal columns and beams, 29.53% for channels and 33.84% for angles from South Africa;
- found that an examination of the Australian industry's economic condition reveals it has suffered injury in the form of reduced profits and profitability, price undercutting, price depression and suppression, reduced sales volume and loss of market share;
- found that the injury sustained by the Australian industry was material, and
- found that the cumulative dumping of structural steel from Korea, South Africa and Thailand has caused this material injury to the Australian industry.

2.3 Recommendations

Customs recommends that the Minister publish country wide dumping duty notices for Korea, South Africa and Thailand. It further recommends that the Minister accept price undertakings offered by certain Korean and Thai exporters.

3 INTRODUCTION

3.1 Purpose of investigation

Part XVB of the *Customs Act 1901*, and the *Customs Tariff Anti-Dumping Act 1975* provide for anti-dumping and countervailing measures to be imposed where dumping or subsidisation has caused, or threatens to cause, material injury to an Australian industry producing like goods (the glossary to this report contains more information about the legislation.)

3.2 Procedures

If Customs accepts an application, s. 269TEA requires that an investigation is conducted and a report made to the Minister by day 155. The report must recommend whether dumping and countervailing duty notices should be published; and the level of duty payable.

The report must, to the extent that it is practicable to do so, also extend to any like goods not covered by the application and imported between the start of the investigation and ending 20 days after the SEF was placed on the public record.

The recommendation to the Minister is based on:

- the application;
- submissions to which Customs had regard when formulating the SEF;
- the SEF;
- any submission made in response to the SEF that was received within 20 days of the SEF being placed on the public record by Customs; and
- any other relevant matter.

Customs is not obliged to consider submissions in response to the SEF which are received more than 20 days after the SEF was placed on the public record.

Customs must clearly state the material findings of fact on which any recommendation in this report is based and provide particulars of the evidence relied on to support those findings.

In compiling the report and recommendations, Customs examines submissions and undertakes on-site verifications in Australia and overseas where necessary. Interested parties participate in the investigation process by lodging submissions at various stages.

On the basis of this report, the Minister will make a decision on whether measures should be imposed. If measures are imposed, Customs is responsible for the administrative arrangements.

Interested parties have 30 days after the publication of the Minister's decision in which to ask the Trade Measures Review Officer to review the decision.

3.3 Background to the investigation

On 29 October 2001, OneSteel lodged an application under s. 269TB(1) requesting that the Minister publish a dumping duty notice in respect of structural steel exported to Australia from Korea, South Africa and Thailand.

On 9 November 2001, OneSteel provided further information in support of the application. As a result, the maximum period of 20 days allowed to examine the application recommenced on 9 November 2001.

The application alleged that injury was being caused to the Australian industry in the form of:

- price undercutting;
- price depression;
- loss of volume;
- loss of market share; and
- lost profits.

On the prima facie evidence, Customs accepted the application and initiated an investigation.

The period of investigation for the purposes of determining the dumping margins was 1 October 2000 to 30 September 2001. The period of examination for determining injury was January 1998 to December 2001.

Notification of the investigation was in the *Australian Financial Review* on 30 November 2001 and Australian Customs Dumping Notice No. 2001/067.

Non-confidential versions of the application and relevant questionnaires were distributed to the known exporters and Australian importers of the goods the subject of the application.

Non-confidential versions of the application, Australian industry visit reports, importer visit reports, normal value reports and submissions from interested parties were placed on the public record. The public record is held by Trade Measures Branch office management at Customs House, 5 Constitution Avenue, Canberra 2601, telephone (02) 6275 6057.

On 20 March 2002 Customs placed the SEF on the public record. Interested parties were given 20 days to respond to the SEF. Customs received six submissions in the response to the SEF, which it considered in formulating its final recommendations to the Minister.

On 15 April 2002 Customs made a preliminary affirmative determination (PAD) that there were sufficient grounds for the publication of a dumping duty notice on the goods exported from Korea, South Africa and Thailand. Securities under s. 42 were imposed in respect of any interim dumping duty that may become payable on exports from those countries that are imported on or after 15 April 2002.

4 THE GOODS UNDER CONSIDERATION

The goods under consideration (GUC) are hot rolled structural sections in the following shapes and sizes:

Channels (C or U sections)	Universal beams (I sections)	Universal columns (H sections)	Angles (L sections).
Of a height greater than or equal to 150mm and less than or equal 380mm	Of a height greater than or equal to 150mm and less than or equal to 610mm	Of a height greater than or equal to 100mm and less than or equal to 310mm	With a combined leg length greater than or equal to 240mm and less than or equal to 400mm

The following range of sizes are included in the GUC.

Channels(C or U sections)	Universal beams (I sections)	Universal columns (H sections)	Angles (L sections).
height (mm)	height (mm)	height (mm)	length (mm)
150	150	100	150 x 90
180	180	150	150 x 100
200	200	200	125 x 125
230	250	250	150 x 150
250	310	310	200 x 200
300	360		
380	410		
	460		
	530		
	610		

Imported structural steel is generally quoted to Australian Standard AS/NZS 3679.1. If not quoted to this standard, it will generally be quoted to an international equivalent standard. Customs found that the vast majority of imported product is offered with a nominal yield strength of 300 MegaPascal (Mpa).

Structural steel is classified to tariff subheadings 7216.31.00, 7216.32.00, 7216.33.00 and 7216.40.00 of Schedule 3 to the *Customs Tariff Act 1995*. However, it was noted during visits to importers that quantities of structural steel have been misclassified by some customs brokers, and appear under a range of tariff classifications including 7221.10.00 and 7216.50.00.

5 AUSTRALIAN INDUSTRY

Section 269TB(1) specifies that an application for publication of a dumping duty notice may be lodged where, inter alia, there is an Australian industry producing like goods to the GUC.

5.1 Produced in Australia

Subsections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- where the goods have been partly manufactured in Australia, then at least one substantial process in the manufacture of the goods must be carried out in Australia.

Based on the verified data provided by OneSteel and after observing the manufacturing processes of structural steel at OneSteel Whyalla Steelworks (Whyalla Steelworks), Customs is satisfied that structural steel manufactured by OneSteel is wholly manufactured in Australia.

Therefore, structural steel manufactured by OneSteel is to be taken to be produced in Australia for the purposes of s. 269T(2).

5.2 Like goods

Structural steel manufactured in Australia has the following essential characteristics:

- it complies with Australian Standard AS/NZS-3679.1;
- it is manufactured to the same range of sizes as imported structural steel; and
- it normally has a nominal minimum yield strength of 300 Mpa.

Customs considers structural steel produced in Australia physically resembles the GUC in size, weight, shape and appearance and is functionally the same. Australian produced structural steel and the GUC are sold into the same markets, and are directly competitive.

Therefore, Customs concludes that Australian structural steel is a like good to the GUC.

5.3 Australian industry

In 1997 BHP Limited (BHP), now BHP Billiton Ltd, restructured its long products activities. The main elements were the closure of BHP's Newcastle primary steel making facilities, the construction of a billet caster and associated metallurgical facilities at Whyalla, the closure of a rod mill in Geelong and the consolidation of wire making facilities. This process culminated with the "spin-out" of some of BHP's activities and the creation of OneSteel Limited in October 2000.

OneSteel Limited is a publicly listed company and has three principal operating divisions or business units within Australia. The Australian operating divisions are:

- Whyalla Steelworks;
- OneSteel Market Mills (Market Mills); and
- OneSteel Distribution.

Prior to the “spin out”, the Whyalla Steelworks business was operated by BHP. Any references to OneSteel’s operation of the Whyalla Steelworks prior to October 2000 should be read as operations by BHP.

Prior to commissioning the Whyalla billet caster, Whyalla Steelworks only produced raw steel in the form of blooms and slabs. Blooms were used internally as were some slabs, with the balance of slabs sold to other BHP facilities or exported. (Blooms, slabs and billets refer to different sizes of raw steel, with varying metallurgical properties, which are subsequently converted via downstream mills to a variety of products).

Following the commissioning of the Whyalla billet caster and the closure of the Newcastle blast furnace and steel making operations, Whyalla Steelworks produced billet for consumption in the Newcastle rod and bar mills, with the sale of slabs to other facilities both on and off shore falling correspondingly.

Whyalla Steelworks mines iron ore from the Middleback Ranges and produces raw steel. About 55% of that steel is transferred to Market Mills in billet form and the balance is used in the Whyalla Steelworks mainly to manufacture structural steel and rails.

Smorgon Steel Group (Smorgon) is also part of the Australian industry. Within the range of goods under reference Smorgon manufactures 150 mm hot rolled parallel flange channels.

As structural steel produced by OneSteel (and Smorgon) are like goods to the GUC there is an Australian industry in respect of the like goods and the industry consists of OneSteel and Smorgon.

6 AUSTRALIAN MARKET

6.1 Market structure

Distributors generally purchase and supply the complete range of structural steel. As a large proportion of structural steel is sold into structural applications the material is usually sold by distributors to steel fabricators. A building contractor, contracted by the end client, employs the steel fabricator.

Imported structural steel is sold to distributors, either through a trading house or direct from the overseas steel mill.

For injury analysis purposes, Customs considers that sales to distributors, whether these are sales by the Australian industry, importers or overseas mills, is the appropriate level at which to compare sales of structural steel.

In its response to the SEF, the Australian Steel Association Inc (ASA) stated that “scope exists for OneSteel however, being the sole producer and major distributor of the GUC, to determine at what point of the sale does it take the profit”. It claimed that price comparisons should be made by examining sales by distributors. The ASA provided no evidence to support this claim. Customs found no evidence to support this claim during the process of verifying the financial information provided by OneSteel in its application.

The main factors influencing demand for structural steel are non-dwelling engineering and mining construction activity. A slump in the domestic economy adversely impacts on construction activity and thereby sales of structural steel. As evidence of the relationship between construction activity and sales of structural steel, OneSteel’s sales since 1998-99 follow a similar trend to that of ABS engineering construction statistics.

The main alternative product to structural steel is reinforced concrete, although circular hollow sections and rectangular hollow sections can be substituted in a limited number of applications.

6.2 Market size

The market is supplied by OneSteel, Smorgon and by imports from Korea, South Africa, Thailand and a number of other countries. Korea, South Africa and Thailand account for the majority of imports.

Customs has estimated the size of the Australian market for structural steel using its commercial database and verified sales information gathered from the Australian industry, importers and exporters.

In its response to the SEF, the ASA questioned Customs’ estimate of the market size. The estimates used by the ASA differ from information verified by Customs. The GUC do not include all hot rolled structural sections and Customs estimated the size of the market using sales and imports of the nominated shapes and sizes. Customs is satisfied that its estimate of the size of the Australian market is accurate.

The table below shows the annual size of the Australian market for structural steel.

AUSTRALIAN MARKET - TONNES				
	1998	1999	2000	2001
Sales volume	300,000	295,000	280,000	250,000

There has been an overall decline in market activity over the period examined. Interested parties attributed this to a decline in construction activity following preparation for the Sydney Olympics and the introduction of the goods and services tax. A number of interested parties considered that there were recent signs of increasing construction activity. Customs examined ABS data on engineering construction activity and found that activity increased slightly in the last two quarters of 2001.

7 THE DUMPING INVESTIGATION

Dumping occurs when the export price of a product is less than the normal value of the same (or similar) product in the domestic market of the country of export. This section explains the results of Customs' investigation of this aspect.

7.1 Background

The investigation period is 1 October 2000 to 30 September 2001. Customs examined exports of structural steel to Australia during that period to determine whether dumping has occurred.

Customs identified a number of exporters of structural steel from Korea, South Africa and Thailand. Customs identified the exporters set out in the following table from OneSteel's application and its own commercial database.

Exporter/manufacturer	Questionnaire sent	Response received	Visited	Cooperated
INI Steel Company (INI) of Korea	Yes	Yes	Yes	Yes
Siam Yamato Steel Co. Ltd (SYS) of Thailand	Yes	Yes	Yes	Yes
Highveld Steel and Vanadium Corp Ltd (Highveld) of South Africa	Yes	Yes	Yes	Yes
Oreport (Pty) Limited (Oreport) of South Africa	Yes	Yes	Yes	Yes
ISCOR Iron and Steel (ISCOR) of South Africa	Yes	No	No	No
Macsteel International Far East Limited (Macsteel) of South Africa	Yes	No	No	No
Cape Gate (Pty) Ltd (Cape Gate) of South Africa	Yes	No	No	No

With the exception of ISCOR, Macsteel and Cape Gate, the companies identified responded to the exporter's questionnaire. ISCOR and Macsteel did not respond because structural steel only represents a small proportion of their product range. Cape Gate does not supply structural steel.

7.2 Export price

Export prices are assessed under s. 269TAB. Where the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter, the export price is the price paid or payable by the importer to the exporter other than any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation. Where the purchase is an arms length transaction, the export price is

assessed under s. 269TAB(1)(a). Where the purchase is not an arms length transaction, the export price is assessed under s. 269TAB(1)(b). Where circumstances preclude the use of s. 269TAB(1)(a) or s. 269TAB(1)(b), the Minister determines export prices under the succeeding provisions of s. 269TAB.

7.2.1 INI of Korea

During the investigation period, INI exported structural steel to Stemcor (A/Asia) Pty Ltd (Stemcor), Sumikin Bussan International (Australia) Pty Ltd (Sumikin) and MetalCorp Pty Ltd (MTC).

Nearly all INI's exports of structural steel to Australia during the investigation period were universal columns and beams, also known as H-beams. Channels and angles accounted for less than 1% of INI's exports to Australia during the investigation period.

Customs considers INI is the exporter as, in addition to manufacturing the goods, INI:

- conducts sales negotiations with the Australian customers or their representatives;
- selects the market for export;
- is aware of the destination and Australian customer for all structural steel manufactured for the Australian market, irrespective of the distribution chain; and
- causes the export of the goods from Korea to Australia.

Export sales to Stemcor and Sumikin were made through agents in Korea. Initially, INI exported to MTC through an agent, although it exported directly to MTC for the majority of the investigation period.

In the case of Stemcor, INI negotiates the price with Stemcor, but the export agent invoices Stemcor. Sumikin engages an agent in Korea to negotiate a price with INI. Sumikin is unaware of the negotiated price, nor is INI aware of the final price to Sumikin.

Material examined by Customs during the verification visit did not indicate there was any consideration payable for or in respect of the goods other than price; or that the buyer, or an associate of the buyer, would, subsequent to the purchase or sale, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Material examined by Customs during the visit did not indicate that the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

Customs is therefore satisfied that sales by INI to the Australian importers were arms length transactions in terms of s. 269TAA.

INI does not differentiate in price between different sizes of structural sections. However, it does differentiate in price between different shapes. Customs has

therefore calculated three weighted average export prices; one for H-beams, one for channels and one for angles.

Customs found export prices fell during the investigation period. Weighted average export prices in the second half of the investigation period were about 16% lower than in the first half of the investigation period.

INI only exported angles in the first half of the investigation period and the weighted average export price does not take into account the fall in prices for structural steel in the second half of the investigation period. In February 2001, the date of the latest shipment of angles, the export price for angles was similar to the export price for H-beams.

For sales to Stemcor, Sumikin and to MTC where an agent was involved, the goods have been exported to Australia otherwise than by the importer, but have not been purchased by the importer from the exporter. Therefore, the export price cannot be assessed under s. 269TAB(1)(a) or s. 269TAB(1)(b). Customs has verified all the circumstances of the exportations and recommends that export prices be determined under s. 269TAB(1)(c).

In respect of direct sales to MTC, INI invoiced the importer and the importer paid INI. Customs has assessed export prices under s. 269TAB(1)(a).

7.2.2 SYS of Thailand

During the investigation period, SYS exported structural steel to Thyssen Mannesmann Trading Pty Ltd (TMT), MTC and CMC Australia Pty Ltd (CMC).

About 80% of SYS' exports of structural steel to Australia during the investigation period were H-beams and the balance were channels. SYS did not export angles to Australia during the investigation period.

The importers pay Siam Cement Trading (SCT), but they are aware that they are purchasing structural steel manufactured by SYS. SYS simply utilises SCT services to arrange export and commercial documentation.

Customs considers SYS is the exporter because:

- SYS negotiates the sales of the goods, including establishing the price;
- SYS packs the goods, arranges transport to the port and pays all port and customs charges in Thailand; and
- causes the export of the goods from Thailand to Australia.

SYS exports directly to its Australian customers. However, in the case of TMT and CMC, SYS invoiced SCT who then invoiced the customer.

No material examined by Customs during the verification visit indicated there was any consideration payable for or in respect of the goods other than price; or that the buyer, or an associate of the buyer, would, subsequent to the purchase or sale, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

No material examined by Customs during the visit indicated that the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

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

SYS does not differentiate in price between different sizes of structural sections but does differentiate in price between different shapes. Customs has therefore calculated two weighted average export prices; one for H-beams and one for channels.

Customs found export prices fell during the investigation period. Weighted average export prices in the second half of the investigation period were 12 to 13% lower than in the first half of the investigation period.

For sales to TMT and CMC, SCT invoiced the importer and the importer paid SCT. The goods have been exported to Australia otherwise than by the importer, but have not been purchased by the importer from the exporter. Therefore, the export price cannot be assessed under s. 269TAB(1)(a) or s. 269TAB(1)(b). Customs has verified all the circumstances of the exportation and recommends that export prices be determined under s. 269TAB(1)(c).

In respect of sales to MTC, SYS invoiced the importer and the importer paid SYS. Customs has assessed export prices under s. 269TAB(1)(a).

SYS did not export angles to Australia during the investigation period. Customs recommends that the Minister determine export prices for angles under s. 269TAB(3) using the export price for H-beams.

7.2.3 Oreport of South Africa

During the investigation period Highveld manufactured structural steel for export. Highveld sells structural steel to Oreport, a South African based trading house. Oreport sells Highveld structural steel to Sanwa Pty Ltd (Sanwa) in Australia.

About 80% of Oreport's exports of structural steel to Australia during the investigation period were universal columns and beams¹ and the balance were channels. Oreport did not export angles to Australia during the investigation period.

Customs considers Oreport is the exporter because:

- Sanwa orders the goods and negotiates the price with Oreport, although it is aware that it is purchasing structural steel manufactured by Highveld;
- Oreport purchases the structural steel from Highveld for on-sale to Sanwa; and
- Oreport causes the export of the goods from South Africa to Australia.

¹ Unlike INI and SYS, OneSteel and Oreport do not refer to universal columns and beams (I and H beams) as H-beams.

Material examined during the visit did not indicate there was any consideration payable for or in respect of the goods other than price; or that the buyer, or an associate of the buyer, would, subsequent to the purchase or sale, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Material examined during the visit did not indicate that the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

Customs is satisfied that sales by Oreport to Sanwa were arms length transactions in terms of s. 269TAA.

Customs found that prices varied for different sizes of structural sections. However, it found that prices for universal beams and columns were similar and differed from prices for channels. Customs has therefore calculated two weighted average export prices; one for universal beams and columns and one for channels.

Customs found export prices fell during the investigation period. Weighted average export prices in the second half of the investigation period were 9 to 15% lower than in the first half of the investigation period.

Customs has assessed export prices under s. 269TAB(1)(a) using Oreport's export prices to Sanwa.

Oreport did not export angles to Australia during the investigation period. Customs recommends that the Minister determine export prices for angles under s. 269TAB(3) using the export price for universal beams and columns.

7.3 Normal value

Normal values are assessed under the hierarchy of methods set out in s. 269TAC. The primary method is using the price paid or payable in the country of export. Where circumstances preclude the use of s. 269TAC(1), the Minister determines normal value under the succeeding provisions of s. 269TAC.

While the information obtained from the exporter or from other sellers may suggest that the normal value will be assessed under s. 269TAC(1), Customs verifies information relevant to the other provisions of s. 269TAC. This allows alternative methods to be used should subsequent inquiries reveal that domestic sales are not relevant or not suitable. In any event, Customs requires information on costs to make and sell for the ordinary course of trade test (s. 269TAAD).

For normal value to be assessed under s. 269TAC(1) there must be domestic sales of like goods for home consumption; made in the ordinary course of trade and at arms length.

Where domestic sales at the same level of trade as the export sales occur in sufficient volume to permit fair comparison, Customs bases its normal value assessment upon all of those sales. Customs considers the volume of sales on the

domestic market is sufficiently representative for normal value purposes if domestic sales of like goods are greater than 5% of the volumes of export sales to Australia.

Customs will only assess a normal value using sales of a selected grade or grades or comparable volumes (rather than all domestic sales at the comparable level of trade as the export sales) if sufficient evidence exists. Any claimed effect on prices due to differences in grades or volume must be demonstrated. Customs does not accept theoretical or assumed grounds as sufficient to claim a selective normal value using a particular grade or grades or volume.

7.3.1 INI of Korea

Domestic sales

INI is a steel manufacturer that produces a range of steel products including structural steel.

Angles and channels accounted for a very small proportion (less than 1%) of INI's exports of structural steel to Australia during the investigation period. Customs considered that compiling this information would place an unnecessary burden on INI and, even if provided, it would not make a significant contribution to the investigation. Customs therefore advised INI that if it provided information only on H-beams this would not be viewed as non-cooperation but, if measures were imposed based on information provided only in respect of H-beams, these measures would be imposed on all shapes of structural steel exported by INI to Australia. INI chose not to provide domestic sales information and costs in respect of angles and channels.

Customs collected and verified information on all domestic sales of H-beams by INI.

INI sells H-beams domestically to distributors and end-users. Prices between distributors and end-users varied. Sales of H-beams to distributors formed the majority of INI's domestic sales of structural steel during the investigation period.

Customs is satisfied that sales to end-users are not comparable with sales to Australia and they were therefore not used in the normal value assessment. Customs also excluded from the normal value assessment certain sales not considered to be sales for home consumption made in the ordinary course of trade (eg a small volume of surplus export grade structural steel).

Customs selected domestic grades that had characteristics closely resembling the GUC. Sales of the selected grades accounted for nearly all of INI's domestic sales to distributors. As domestic sales at the same level of trade as export sales occurred in sufficient volume to permit fair comparison, Customs has based its assessment of normal value upon all of those sales.

OneSteel argued that Customs should assess normal values on the basis of sales of the closest comparable domestic grade of steel to that exported to Australia.

INI asserted that any price differences reflected market conditions², customer relationship and sales volumes; it asserted price differences did not reflect grade differences. Where domestic sales at the same level of trade as the export sales occur in sufficient volume to permit fair comparison, Customs usual practice is to base the normal value upon all of those sales. A claim that prices varied for different grades would have to be demonstrated.

In this case, Customs analysed prices among different grades sold by INI on the domestic market. Analysis showed that prices among all grades varied across several invoices. This was also the case for sales to Australia. Customs also noted that the difference in cost to make and sell between grades was not significant. The claim that prices varied for different grades was not demonstrated. While OneSteel differentiates between its 300 and (higher) 350 grade by price, there is evidence that differences in grades, at least up to the equivalent of OneSteel's 300 grade, are not consistently reflected by price differences in other markets.

OneSteel submitted that normal values should be based on comparable sales volumes for INI's domestic and export sales. Customs will not use sales to one domestic customer as a basis for normal values unless exceptional circumstances exist. Any claimed effect on prices due to differences in quantities of the goods must be demonstrated and distinguished from other possible influences such as overall business volume (which includes the goods) or level of trade. Similarity of volumes sold to a domestic customer and the total export sales is not a sufficient ground to claim that normal values should be based on that customer's prices.

While Customs notes that the total volume of domestic sales was considerably higher than the volume exported to Australia this does not support OneSteel's position. Customs also notes that the volume of sales to INI's main Australian customer exceeded the volume sold to INI's largest domestic distributor.

Customs considers there is insufficient evidence for it to depart from its usual practice of using all domestic sales at the same level of trade as export sales, as the basis for calculating normal values. No factor was identified that would make the sales used to calculate normal values unsuitable for this purpose.

Ordinary course of trade

Customs compared the price paid by distributors to INI's cost to make and sell and found that the sales were made in the ordinary course of trade in accordance with s. 269TAAD.

Arms length transactions

Customs found no evidence that there was any consideration payable for or in respect of the goods other than their price. It also found no evidence that the price

² INI argued that it is under pressure from Chinese, Japanese and to a lesser extent Russian imports of structural steel in its domestic market and, therefore, market conditions primarily dictate INI's domestic prices.

was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

Customs identified billing adjustments made by INI. Having regard to INI's established trading practices, the period over which this practice has been in place, and the ability to quantify the billing adjustments, Customs does not consider that these are reimbursements, compensation or other benefits that would render the transactions not arms length.

Customs is satisfied that domestic sales of structural steel by INI are arms length transactions in terms of s. 269TAA.

Adjustments

INI claimed adjustments for level of trade, credit terms, inland freight, warranty costs, duty drawback, inventory carrying costs and indirect selling expenses. Customs is satisfied that the evidence supports INI's claims for adjustments for inland freight, duty drawback and inventory carrying costs.

INI claimed that an adjustment to normal values for level of trade was required as it sells to both distributors and end-users on the domestic market while all export sales to Australia are to distributors. Customs considered that there were sufficient volume of sales to distributors upon which normal values could be based. Therefore, Customs used only sales to distributors in assessing normal values and no adjustment was required.

INI claimed that an adjustment for export credit terms was required as it identified that payment dates for some invoices were several days after the invoice date. Customs noted that payment terms were at sight and considers this was indicative of an agreement between supplier and customer that the export price included no consideration for credit. Customs does not consider an adjustment for export credit terms is required.

INI claimed that it incurs after sale costs in respect of warranty, but only in relation to sales made on the domestic market. To support its claim, INI provided evidence of warranty claims for invoices prior to the investigation period and in respect of goods other than H-beams. Customs does not consider that sufficient information was provided to make the claimed adjustment.

INI claimed that indirect selling expenses incurred in relation to domestic sales differed to those incurred for export sales. From the information provided, Customs noted that:

- included in its expenses were some overheads that would have been incurred whether or not sales were made;
- the largest expense item was called 'outside service' which was not explained by INI, and
- the accounts do not identify indirect selling expenses in respect of any discrete product group.

Customs was not satisfied that the price comparison between domestic and export sales is affected by any differences in indirect selling expenses. Therefore an indirect selling expenses adjustment is not warranted.

OneSteel submitted Customs should have made positive adjustments to INI's domestic selling prices for:

- higher manufacturing and development costs in relation to the exported product;
- the opportunity cost of selling surplus export product on the domestic market;
- the opportunity costs of carrying inventory of finished product for export; and
- additional handling, equipment and labour expenses associated with exported product.

OneSteel also submitted that normal values in Korea should not be adjusted for domestic credit terms and domestic inland freight.

Tooling used by INI to produce structural steel for export to Australia is also used to produce structural steel for export to other (imperial size) markets. INI allocates manufacturing and development costs over all exports of equivalent sizes.

To make such an adjustment Customs would need to compare these costs with comparable costs incurred in respect of domestic sales. It would then need to be satisfied that any difference in the costs would be reflected in the price. Information provided by INI suggests any difference in these costs would be small.

Customs is satisfied that any specific cost differences associated with what OneSteel describe as "increased changeover costs" and depreciation associated with the "development of tooling exclusively for the Australian market" do not have an effect on price.

Customs is not satisfied that any opportunity costs of selling surplus export grade domestically at reduced prices had any effect on price. Customs notes that such sales represented a very small proportion of domestic sales during the investigation period.

In relation to the opportunity cost of carrying inventory, Customs accepts it may be reasonable to offset any claim in relation to domestic sales with a similar assessment for export sales. Customs has considered the opportunity cost in respect of export sales to Australia and is of the view such costs are immaterial and unlikely to affect price.

In relation to the handling, equipment and labour expenses in respect of exports, Customs is satisfied that these expenses have been taken into account.

Customs is satisfied that adjustments for the differences nominated by OneSteel are not warranted.

Customs has calculated negative adjustments in respect of domestic credit terms, domestic inland freight, duty drawback, inventory carrying costs and positive

adjustments in respect of export inland freight, wharfage, lashing and free-on board (FOB) charges.

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

Normal value

Customs has assessed a normal value for H-beams under s. 269TAC(1) on the basis of the weighted average price paid for like goods sold by INI 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).

Customs had insufficient information to calculate normal values for channels and angles under s. 269TAC(1), s. 269TAC(2)(c) or s. 269TAC(2)(d).

Customs recommends that a normal value for channels be determined under s. 269TAC(6) having regard to all relevant information. It has calculated normal values for channels using the weighted average export price and adding the weighted average dumping margin that was calculated in respect of H-beams.

Customs has recommended that a normal value for angles be determined under s. 269TAC(6) having regard to all relevant information. It has calculated normal values for angles using the weighted average export price for H-beams and adding the weighted average dumping margin that was calculated in respect of H-beams.

7.3.2 SYS of Thailand

Domestic sales

SYS is a steel manufacturer that produces a range of steel products, including structural steel. SYS sells structural steel to retailers (distributors) and end users (fabricators), with a small volume being sold to members of the related Cement Thai group of companies.

Most orders are filled from SYS' distribution centre at Sriracha, although some are delivered directly from the plant at Rayong. In most cases, the customer arranges for the goods to be picked up from the distribution centre. SYS also delivers the goods, but charges the customer for this service. Domestic prices are set monthly, taking into account current market conditions. Customers submit their requirements for the coming month after they have been advised of their monthly price. SYS advised domestic selling prices vary according to the customer's level of trade (prices to fabricators are higher than prices to distributors) and credit terms.

SYS sells tapered flange channels on the domestic market. It sells parallel flange channels to Australia. SYS did not provide information on domestic sales of tapered flange channels. Customs collected and verified information on all comparable domestic sales of H-beams by SYS.

Customs does not consider that sales to fabricators can be fairly compared to sales to distributors and therefore sales to fabricators were not used in the normal value

assessment. Sales of other goods and sizes of structural steel that were not exported to Australia were also not used in the normal value assessment. Customs also did not use sales that were considered not to be made in the ordinary course of trade (eg sales of second grade product). Sales to related companies were also excluded.

Customs selected domestic grades that had characteristics closely resembling the GUC. As domestic sales at the same level of trade as export sales occurred in sufficient volume to permit fair comparison, Customs has based its calculation of normal value upon all of those sales.

OneSteel claimed SYS sells structural steel to distributors “at a significant discount for secondary export” and submitted information in support of this claim. The information supplied in support of OneSteel’s claim was general and did not indicate when, to whom, what goods, volume and rebates were paid. If Customs had included sales to fabricators in the calculation of normal values, the information provided by OneSteel would be insufficient for Customs to exclude particular sales made during the investigation period on the basis that they were not sales for home consumption.

As sales to fabricators were not included in the normal value assessment, the payment of export rebates by SYS is not in issue. The information supplied also did not indicate that SYS’ sales of structural steel to domestic distributors were affected by export rebates as rebates appear to be paid to the exporter, whether the structural steel is bought from SYS direct or through a distributor.

OneSteel submitted that normal values should be based on comparable sales volumes for SYS’ domestic and export sales. As stated above, Customs will not use sales to one domestic customer as a basis for normal values unless exceptional circumstances exist. Any claimed affect on prices due to differences in quantities of the goods must be demonstrated and distinguished from other possible influences such as overall business volume (which includes the goods) or level of trade. Similarity of volumes sold to a domestic customer and total export sales is not sufficient to claim that normal values should be based on that customer’s prices.

While Customs notes that the total volume of domestic sales was considerably higher than the volume exported to Australia this does not support OneSteel’s position. Customs also notes that the volume of sales to SYS’ main Australian customer exceeded the volume sold to SYS’ largest domestic distributors.

OneSteel claimed SYS has periodic “clearance sales” and submitted information in support of this claim. The information submitted:

- indicates that SYS may conduct discount sales of slow moving product and three to four such sales may have occurred since October 2000, the latest in December 2001 (after the investigation period); and
- is general and does not indicate precisely when, to whom, what goods, volume and at what (discounted) price, goods were alleged to have been sold and would therefore be insufficient for Customs to exclude particular sales made during the investigation period from its calculation of normal values.

Customs found discount sales occurred on 12 occasions during the investigation period and excluded all these sales from the calculation of normal values as not being in the ordinary course of trade.

Customs considers there is insufficient evidence for it to depart from its usual practice of using all domestic sales at the same level of trade as export sales as the basis for calculating normal values. No factor was identified that would make the sales used to calculate normal values unsuitable for this purpose.

Ordinary course of trade

Customs compared the price paid by distributors to SYS' cost to make and sell and found that the sales were made in the ordinary course of trade in accordance with s. 269TAAD.

OneSteel considers Customs verification of SYS' purchases of scrap may have been inadequate and that therefore the finding that domestic sales were in the ordinary course of trade may be flawed.

Customs examined scrap inventory records for the September quarter of 2001. During this period there were two or three importations of scrap. It verified details of one importation in July representing over 50% of purchases for the quarter. Customs also examined purchases of local scrap. Customs selected purchases and verified that the amount paid per tonne was consistent with end of month inventory balances.

Customs is satisfied that its verification of scrap purchases was adequate and that the cost of scrap included in the cost to make structural steel reflects actual costs incurred by SYS.

Arms length transactions

Customs found no evidence that there was any consideration payable for or in respect of the goods other than their price. It also found no evidence that the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

However, subsequent to sale domestic customers were reimbursed in respect of part of the price. The arrangements were governed by written agreements between the parties. Having regard to SYS' established trading practices, the period over which this practice has been in place, and the ability to quantify the reimbursements, Customs does not consider that these are reimbursements, compensation or other benefits that would render the transactions not arms length.

OneSteel has expressed concern regarding whether transactions within the Siam Cement Group were at arms length. Customs examined agreements, details of transactions and payment records for transactions between the various parties. It found no evidence to suggest that these transactions were not at arms' length.

OneSteel has also claimed that there were ownership links between SYS and some domestic scrap suppliers and the transactions between these parties may not be at arms length. Customs reviewed the information provided by SYS and, where

possible, compared it to information provided by OneSteel. Customs found no evidence to suggest that transactions between SYS and its domestic scrap suppliers were not at arms' length.

Customs is satisfied that domestic sales of structural steel by SYS are arms length transactions in terms of s. 269TAA.

Adjustments

SYS clarified its claims for adjustments to the domestic price during the verification visit. It claimed adjustments for differences in credit terms; inland freight and FOB charges; level of trade; export sales commission; export refund and a fee paid to Siam Cement Company.

A level of trade adjustment was not made as insufficient information was provided to support the claim.

SYS subsequently claimed adjustments for differences in selling expenses; sales service and warehousing. Customs reviewed the additional evidence provided, but did not calculate an adjustment for selling expenses because insufficient evidence was provided in respect of export selling expenses and direct selling costs were not clearly identified.

OneSteel suggested Customs should have made positive adjustments to SYS' domestic selling prices for:

- differences in grades sold domestically and exported to Australia; and
- certain higher manufacturing and development costs in relation to the exported product.

OneSteel has submitted on several occasions that Customs should assess normal values on the basis of sales of the closest comparable domestic grade of steel to that exported to Australia. As an alternative, OneSteel has submitted that Customs should make an adjustment to the normal value for the differences between domestic and export grades of structural steel.

During the verification visit, Customs identified small differences in costs for grades of steel sold domestically and grades exported to Australia but found no evidence that these cost differences were consistently reflected in price. Customs accepted the advice of SYS that it would not differentiate on the basis of price if they sold the export grade on the domestic market. In the SEF, Customs states that it accepted this advice because the cost differences between the domestic grade and the export grade were small and because other information provided by SYS was verified to the satisfaction of Customs.

While it is noted that OneSteel does differentiate in price between its 300 and 350 grade, and the evidence obtained on OneSteel's behalf, does indicate that SYS differentially prices "special" grades, there is also evidence that the differences in grades, at least up to the equivalent of OneSteel's 300 grade, are not consistently reflected by price differences. Customs also found that small differences in the cost of different grades in Korea were also not consistently reflected by price differences.

Customs is therefore still satisfied that an adjustment for differences in the domestic grades used for calculating the normal value and the grade exported to Australia is not justified.

Customs reviewed a rolling schedule provided by SYS and found that there were large variations in the quantity of different products rolled, but many of the small volume products were not exported to Australia. Tooling used to produce structural steel for export to Australia is also used to produce structural steel for export to other (imperial size) markets. Manufacturing and development costs are allocated over all exports of equivalent sizes. To make such an adjustment Customs would need to compare these costs with comparable costs incurred in respect of domestic sales. It would then need to be satisfied that any difference in the costs would be reflected in the price. Information provided by SYS suggests any difference in these costs would be small.

Customs is satisfied that any specific cost differences associated with what OneSteel describe as “increased changeover costs” and depreciation associated with the “development of tooling exclusively for the Australian market” did not have an effect on price.

Customs is satisfied that adjustments for the differences nominated by OneSteel are not warranted.

Customs has calculated positive adjustments in respect of inland freight and FOB charges; and export sales commission. It has calculated negative adjustments in respect of domestic credit terms; sales service; warehousing and a fee paid to Siam Cement Company.

OneSteel submitted that market intelligence indicates that SYS does not differentiate in price for domestic sales to distributors on the basis of whether the product is supplied ex-rolling (factory) or ex-warehouse. On the basis of this it submitted that the negative adjustment to the domestic price made by Customs for warehousing costs is inconsistent with the approach of only recognising cost differences when they translate to verified differences in price.

Customs considered OneSteel’s claim and the market intelligence submitted in support of this claim and considers that the latter is not capable of supporting the claim. The researcher inquired “ whether or not differential prices apply to steel immediate delivery ex-warehouse, and steel orders waiting for the next rolling”. A SYS distributor advised that “ex-warehouse prices are the same as monthly standard prices/production schedule, and that orders which must wait on a further (future) rolling are priced “differently” ie are sold under a different monthly agreement.” This does not support the conclusion that SYS prices to distributors ex-factory and ex-warehouse are the same. Customs remains satisfied that an adjustment for differences in warehousing costs is warranted.

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

Normal value

Customs has assessed a normal value for H-beams under s. 269TAC(1) on the basis of the weighted average price paid for like goods sold by SYS in the ordinary course of trade for consumption in Thailand in sales that were arms length transactions with adjustments to domestic selling prices in accordance with s. 269TAC(8).

Customs had insufficient information to calculate normal values for channels and angles under s. 269TAC(1), s. 269TAC(2)(c) or s. 269TAC(2)(d).

OneSteel has submitted that the best available information to determine normal values for channels and angles is information supplied by OneSteel in its application. Customs considered a number of matters in assessing this claim.

- SYS sells channels at a higher price on both the domestic and export markets.
- SYS did not export angles to Australia and no domestic pricing information was provided.
- An analysis of prices for angles in third countries (ie Korea and South Africa), indicates that the price of angles is comparable to the prices for universal beams and columns.

Customs recommends that a normal value for channels be determined under s. 269TAC(6) having regard to all relevant information. It has constructed the normal values using the weighted average export price and adding the weighted average dumping margin that was calculated in respect of H-beams.

Customs recommends that a normal value for angles be determined under s. 269TAC(6) having regard to all relevant information. It has constructed normal values for angles using the weighted average export price for H-beams and adding the weighted average dumping margin that was calculated in respect of H-beams.

7.3.3 Highveld of South Africa

Domestic sales

Oreport does not sell structural steel in South Africa. Highveld sells structural steel on the domestic market including the same sizes that are exported to Australia.

Highveld sells to domestic distributors and fabricators. Selling prices are based on price lists, but prices to individual customers are subject to a number of adjustments. There is no difference in price to the different levels of trade. Customs calculated a weighted average net domestic price for each size and shape of structural steel comparable to sizes exported to Australia using domestic sales of like goods.

The volume of domestic sales of structural steel is considerably higher than the volume exported to Australia. No factor was identified that would make the sales used to calculate normal values unsuitable for this purpose.

Ordinary course of trade

Customs has compared the price paid to the cost to make and sell structural steel and found that domestic sales have been made in the ordinary course of trade in accordance with s. 269TAAD.

Arms length transactions

Customs found no evidence that there was any consideration for or in respect of the goods other than their price. It also found no evidence that the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

Prices to individual customers are subject to a number of adjustments. Having regard to Highveld's established trading practices, the period over which this practice has been in place, and the ability to quantify the adjustments, Customs does not consider that these are reimbursements, compensation or other benefits that would render the transactions not arms length.

Customs is satisfied that domestic sales of structural steel by Highveld are arms length transactions in terms of s. 269TAA.

Adjustments

Highveld did not claim any adjustments. Customs calculated positive adjustments in respect of inland freight and FOB charges; packing; and the cost of Oreport's involvement in the export transactions. It calculated negative adjustments in respect of selling expenses and credit terms.

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

Normal value

Customs has assessed normal values for universal columns, universal beams, channels and angles under s. 269TAC(1) on the basis of the weighted average price paid for like goods sold by Highveld in the ordinary course of trade for consumption in South Africa in sales that were arms length transactions, with adjustments to domestic selling prices in accordance with s. 269TAC(8).

OneSteel's claim that the best available data is information supplied in the application is not relevant as Customs verified sufficient information to assess normal values under s. 269TAC(1).

Since releasing the SEF Customs found an error in the calculation of the weighted average normal value for channels. Customs compared domestic sales of 300X90 parallel flange channels with export sales of the identical product. However, domestic sales of this sized channel were less than 5% of the volume exported to Australia and were therefore not of sufficient volume to determine a normal value. Customs has compared domestic sales of 300X100 parallel flange channels with export sales of 300X90 parallel flange channels. Customs reviewed prices of

different sizes of channels and found no evidence that a specification adjustment was warranted.

The dumping margin for channels is now 29.53% compared with 8.59% as advised in the SEF.

7.4 Dumping margins

In accordance with s. 269TACB, Customs calculated a weighted average of export prices for structural steel exported to Australia during the investigation period. Similarly, it calculated a weighted average of corresponding normal values. The volume of exports determined the weighting.

OneSteel argued that Customs should have regard to specific grades in making a comparison for the purpose of calculating dumping margins. As discussed earlier in this report, in relation to INI and SYS, Customs was not satisfied that cost differences in grade translated to differences in price. Accordingly, Customs did not have regard to grade differences in calculating dumping margins.

Dumping margins determined by Customs are summarised in the following table.

Country	Section	Exporter	Margin
Korea	Universal columns and beams	INI	18.25%
	Channels	INI	18.25%
	Angles	INI	18.25%
South Africa	Universal columns and beams	Oreport	42.59%
	Channels	Oreport	29.53%
	Angles		33.84%
Thailand	Universal columns and beams	SYS	3.52%
	Channels	SYS	3.52%
	Angles		3.52%

Details of Customs analysis of export prices, normal values and dumping margins are at confidential appendix 1.

8 THE ECONOMIC CONDITION OF THE INDUSTRY

This section of the report outlines the results of Customs' consideration of the economic performance of the industry and its assessment of statutory injury factors.

8.1 Applicant's claims

OneSteel claimed that it suffered injury in the form of:

- price undercutting;
- price depression;
- loss of volume;
- loss of market share; and
- lost profits.

OneSteel claimed that injury commenced in the quarter ending February 1999 and is continuing.

On initiation of the investigation Customs nominated an investigation period of 1 October 2000 to 30 September 2001 to determine whether dumping had occurred. Customs also advised that it would examine details of the Australian market from January 1998 to December 2001 to determine if the Australian industry had suffered material injury.

Customs has examined each claim made by the Australian industry as well as other injury factors as required by Australian legislation and World Trade Organization Agreements. In assessing these claims, Customs used verified financial information provided by OneSteel and importers.

8.2 Profits and profitability

Customs calculated OneSteel's profits and profitability using identified revenues and costs applicable to domestic sales of structural steel.

Profits fell by about 20% in 1999, 50% in 2000 and 45% in 2001. Movements in profitability, that is profit expressed as a percentage of revenue, showed similar trends to movements in profits.

Details of Customs analysis of profits and profitability are at confidential appendix 2.

8.3 Price effects

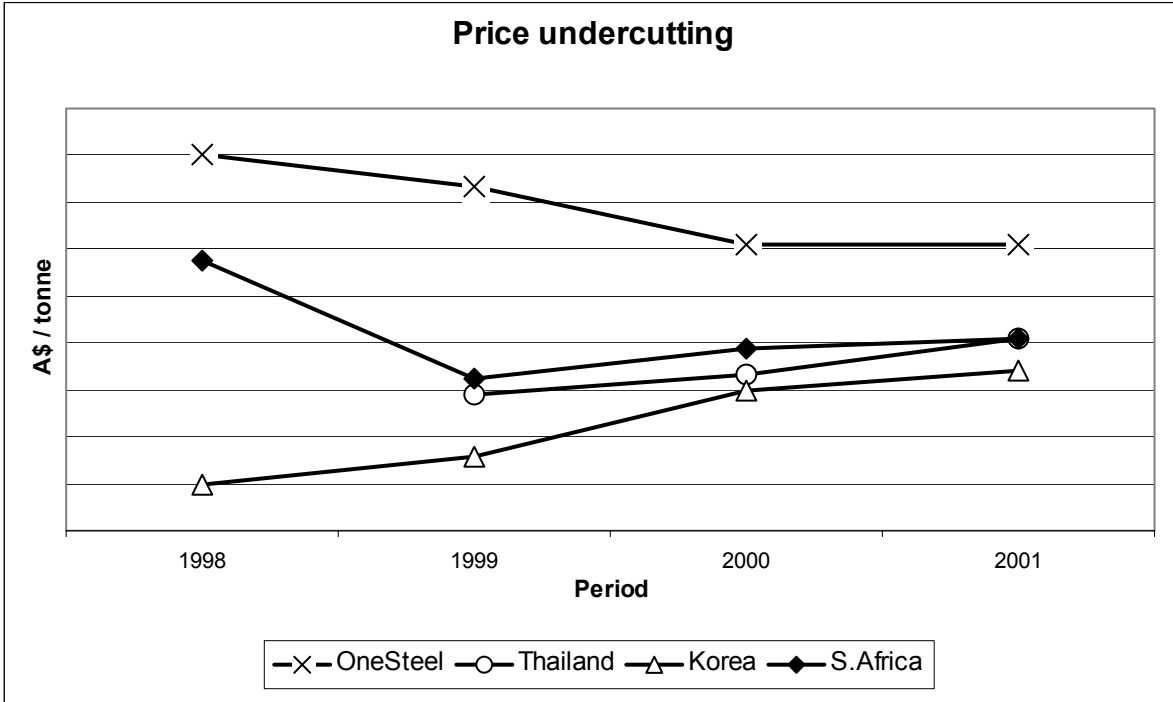
In analysing injury through price effects, Customs has compared weighted average prices at the same level of trade in the Australian market. It has used free into store prices to distributors.

8.3.1 Price undercutting

Price undercutting occurs when an importer sells goods at prices below that of the Australian manufactured product.

Customs compared OneSteel’s selling prices with importer’s selling prices to distributors. The analysis indicates that the price of imports from Korea, South Africa and Thailand undercut OneSteel’s selling prices. The price of imports from Korea undercut OneSteel’s prices by between 19% and 41%. Price undercutting by Thai imports ranged from 13% to 27%. The price of South African structural steel undercut OneSteel’s prices by between 13% and 25%.

Customs notes that prices from all three countries have increased each year since 1999 with the price undercutting margins being lowest in 2001. The following graph illustrates the level of price undercutting by imports of structural steel.



Details of Customs analysis of price undercutting are at [confidential appendix 3](#).

8.3.2 Price depression

Price depression occurs when a company, for some reason, lowers its prices.

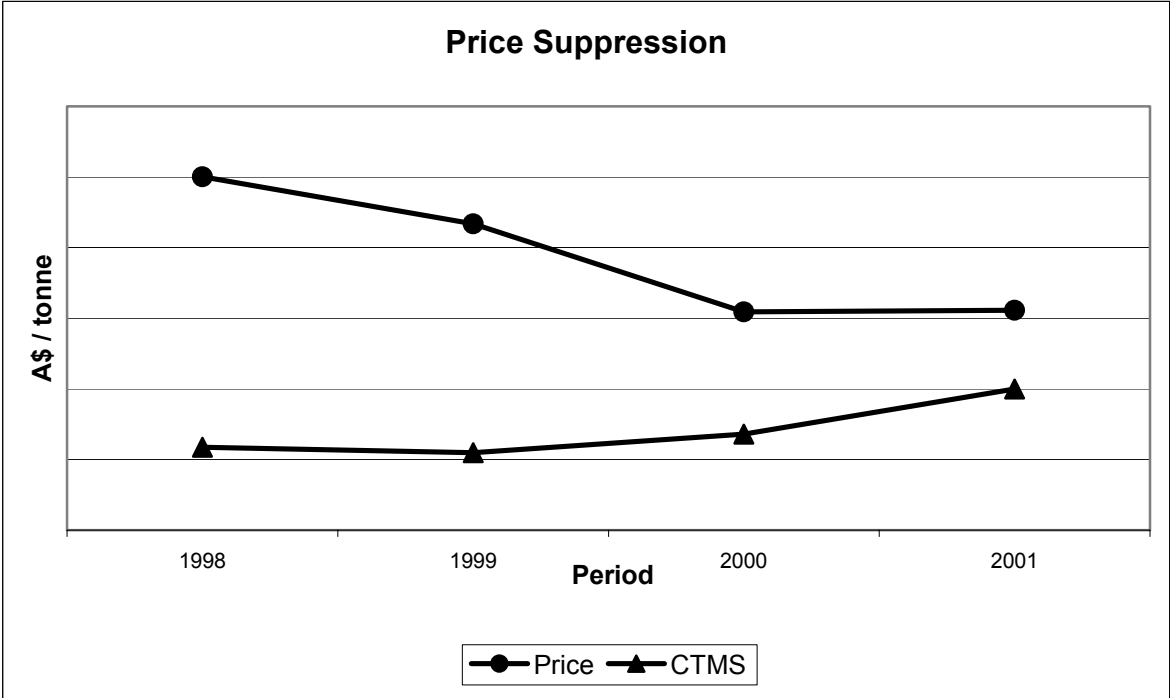
Customs calculated OneSteel’s prices for each year of the period reviewed. It found that the weighted average selling price per tonne fell 4% and 8% in 1999 and 2000 respectively. Prices remained relatively unchanged in 2001 although they were down 11% on prices in 1998, the year before claimed injury commencement.

8.3.3 Price suppression

Price suppression occurs when the margin between costs and selling price is reduced.

OneSteel did not claim injury in the form of price suppression. Customs compared weighted average net selling prices with the weighted average cost to make and sell over the period of claimed injury. It found that the cost to make and sell structural

steel had increased slightly while selling prices had fallen. Price suppression is illustrated in the following graph.



Details of Customs analysis of price suppression are at [confidential appendix 4](#).

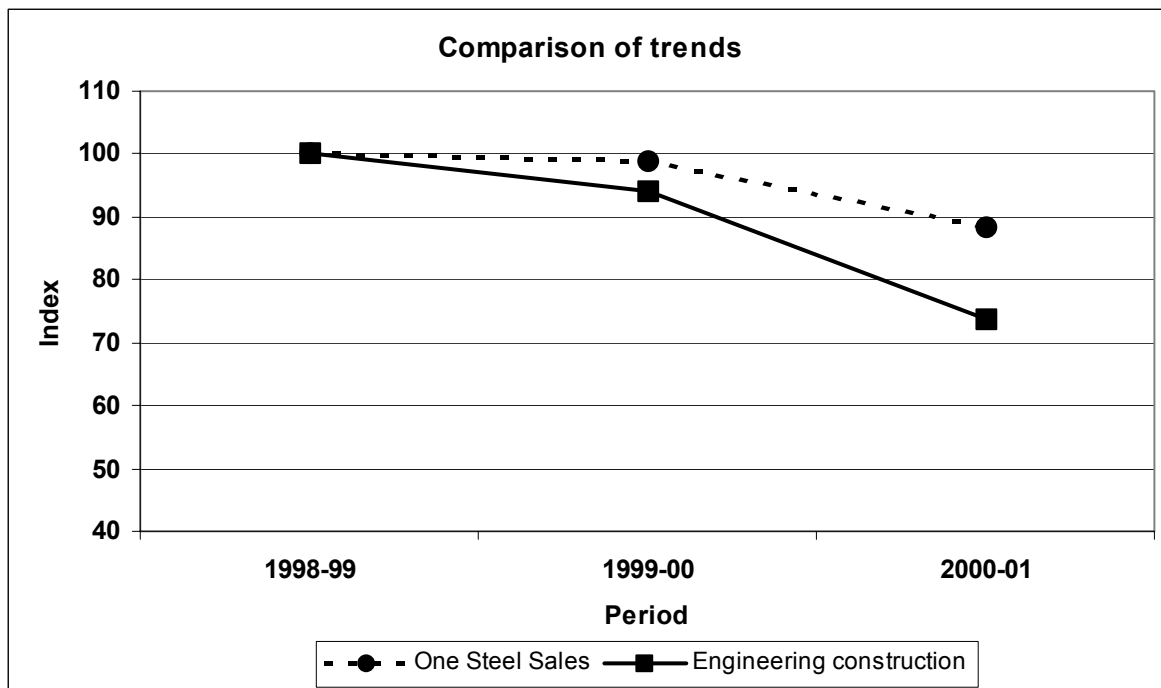
8.4 Volume effects

Customs calculated the size of the Australian market for each year over the period being examined. It used OneSteel’s sales, OneSteel’s estimate of Smorgon’s sales and estimated imports using information from Customs’ commercial database. The domestic market fell slightly in 1999, fell by 5% in 2000 and by a further 10% in 2001.

8.4.1 Lost sales

Analysis of OneSteel’s sales indicates that sales volume decreased at an increasing rate between 1998 and 2001. Sales in 2001 were about 30% less than sales in the year before claimed commencement of injury.

Customs examined the relationship between OneSteel’s sales volume and the trend in engineering construction activity, the main determinant of demand for structural steel. Analysis of the two series indicates that a strong positive relationship exists. The graph below shows the movement in OneSteel’s sales volume and construction activity when indexed to the 1998 base year.



8.4.2 Market shares

OneSteel's market share has fallen each year since 1998 with a net loss of 12 percentage points. At the same time imports from Korea and Thailand have increased. Imports from South Africa and other countries lost market share over the period of analysis.

The following table shows changes in market shares.

Changes in market share: year-on-year					
	1998	1999	2000	2001	1999-2001
Australian industry	Base	-6%	-1%	-5%	-12%
Korea	Base	+4%	+3%	+4%	+11%
Thailand	Base	+4%	+5%	0%	+9%
South Africa	Base	-1%	-3%	+2%	-2%
Other	Base	0%	-4%	-1%	-5%

Details of Customs analysis of the Australian market for structural steel are at [confidential appendix 5](#).

8.5 Other injury factors

OneSteel provided details in respect of:

- revenue, capital investment and return on investment;
- capacity and capacity utilisation;
- employment; and
- stocks and stock movements.

The Whyalla Steelworks is an integrated production facility. The production of structural steel requires the use of most of the facility's assets, but structural steel only accounts for about a third of the revenue of the Whyalla Steelworks. Where possible, OneSteel provided this information in respect of the company overall and for structural steel.

8.5.1 Degree of utilisation of capacity

The capacity of the rolling mill has fallen over the claimed injury period reflecting the reduced number of shifts. Production has also fallen and capacity utilisation, production expressed as a percentage of capacity, has been relatively stable.

8.5.2 Return on investment

Return on investment for the Whyalla Steelworks has fluctuated over time.

8.5.3 Employment

The number of employees fell by about 25% between 1997-98 and 2000-01, but this has been offset to a degree by an increased number of contractors.

8.5.4 Inventories

Inventories for the Whyalla Steelworks and for steel production have fluctuated over time. Customs examined quarterly inventory levels and found that there was a slight downward trend.

8.5.5 Cash flow

Cash flow measures, movements in receivables, creditors and inventory, have fluctuated over the period of claimed injury. Customs could not detect any apparent trend.

8.6 Conclusion

Customs concludes that OneSteel suffered injury in the form of:

- reduced profits and profitability;
- price undercutting;
- price depression;
- price suppression, and
- reduced sales volume and loss of market share.

Customs was unable to draw firm conclusions from an examination of other economic factors, but consider that they do not indicate that there are any trends inconsistent with observed injury factors.

9 HAS DUMPING CAUSED MATERIAL INJURY?

Customs has established that during the investigation period exports from Korea, South Africa and Thailand were dumped and that the Australian industry has suffered injury. This section assesses whether the injury is material and can be attributed to dumping.

9.1 OneSteel's claims

OneSteel's claim of a causal link between dumped imports and material injury to the Australian industry is based on price undercutting by importers to distributors of structural steel. OneSteel claims that in order to retain customers and volume, it is forced to significantly reduce its prices to match price offers for imported goods. OneSteel further claims that this reduction in price, along with lost market share to imports has impacted directly on its profit levels.

9.2 Claims by other interested parties

Importers and exporters raised the following issues as possible factors causing injury to the Australian industry:

- some distributors are excluded from purchasing structural steel directly from OneSteel, effectively forcing these companies to import their structural steel requirements to remain competitive;
- structural steel is being replaced by rectangular hollow sections and circular hollow sections in non-critical and architectural applications;
- OneSteel's blast furnace technology is not as efficient or flexible as the electric arc furnace technology employed by the Korean and Thai manufacturers;
- construction activity in Australia peaked prior to June 2000 (due to preparation for the Sydney Olympics and the introduction of the goods and services tax) and has weakened sharply since; and
- a depreciating trend for the world economy has resulted in falling consumption, prices and production.

9.3 Customs assessment

9.3.1 Price effects

Customs analysis of price effects established that the imported structural steel from Korea, South Africa and Thailand consistently undercut OneSteel's prices during the period 1999 to 2001. Coinciding with the price undercutting, industry prices have been depressed since 1999.

This price depression has also created a situation of price suppression as costs, due mainly to direct raw materials, have increased over the analysis period.

9.3.2 Volume effects

The market analysis established that the Australian market has been contracting since 1998. This supports claims by interested parties of the weakening domestic economy and in particular, engineering construction activity. However, while industry has experienced a decline in sales volume since 1998 (down by about 30%), imports have more than doubled in volume over the same period.

Reflecting these volume trends, OneSteel's market share has fallen by 12 percentage points since 1998, while imports from the nominated countries increased their market share over the same period by 22 percentage points. On a country basis, Korean and Thai imports have increased market share, at the expense of OneSteel and imports from South Africa and other countries.

Customs is satisfied that the reduction in OneSteel's market share coincided with the increase in market share of Korean and Thai imports.

9.3.3 Profits and profitability

OneSteel has lost profits and profitability; it attributes this to price depression and decreased sales volumes. The injury analysis shows price depression, suppression and undercutting by dumped imports. Trends in the changes in market share are indicative of increasing losses to imports. Customs is satisfied that lost profits and profitability are substantially caused by dumped imports.

9.4 Other possible causes of injury

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

The following factors were raised by interested parties and considered by Customs.

9.4.1 Exclusion from supply arrangements

Customs notes that distributors that claim exclusion from supply arrangements do not import structural steel in their own right. Further, Customs has no documentary evidence supporting their claims. OneSteel has provided Customs with issues it considers when determining whether to appoint a distributor. In the absence of supporting evidence Customs is not able to have regard to this claim.

9.4.2 Rectangular and circular hollow sections

Interested parties referred to structures such as Stadium Australia in making the claim that these products are eroding the market for structural steel. OneSteel advised these products have been available on the Australian market for over 20 years and that there has been no significant change in relative prices. Further, OneSteel asserts that these products only offer an engineering equivalent in terms of structural capacity in limited circumstances.

On the available information, Customs is unable to assess the impact of these products on OneSteel's sales of structural steel.

9.4.3 Blast furnace technology

OneSteel disputes the claim that blast furnace technology is not as efficient or flexible as electric arc furnace technology. It states that perceptions that electric arc furnaces are inherently low cost are no longer correct. It provided information on costs for its Sydney electric arc furnace to support this claim.

On the available information, Customs is unable to assess this claim.

9.4.4 Reduced domestic market activity

Customs noted that there has been a decline in the overall Australian market. Further, articles in the press have indicated that the domestic steel market is at its worst for 20 years.

However, OneSteel based its claim of volume injury on a fall in market share. Notwithstanding the overall decline in the market size, the volume of imports has increased and accordingly the market share of imports has increased significantly.

9.4.5 Other factors

The price of different sections of structural steel varies so a change in product mix may lead to a fall in overall weighted average prices. OneSteel quantified this effect in its application. It identified a loss in dollars per tonne over the period of claimed injury, but this is not significant when compared to the observed reductions in selling prices. Customs has reviewed sales data provided by OneSteel and considers this claim is reasonable.

A billet caster was commissioned in May 1999. Prior to this time slabs and blooms were further processed in Whyalla, transferred to BHP's facility at Westernport Bay or exported. Since that time there has been greater emphasis on producing billet for use in OneSteel's Newcastle rolling mill at the expense of sales to BHP and export. In its analysis, Customs has isolated revenues and costs relevant to the production and sale of structural steel over the period from 1998 to 2001.

The rolling mill previously operated 7 days a week, but now operates only 5 days per week (three shifts per day). There is a range of factors that influenced this decision, including a partial withdrawal from export markets and the decline over time in overall domestic volumes. OneSteel claims it has the capacity to supply the total Australian market, including the period when it will be manufacturing product for the Alice Springs to Darwin railway. Customs has reviewed data it collected during its visit to Whyalla Steelworks and considers this claim is reasonable.

Other events that have affected these factors are the restructuring of BHP and subsequent "spin-out" of OneSteel Limited. Whyalla Steelworks has moved to contractors progressively over a significant period of time. Customs is satisfied that, as far as possible, it has isolated these factors in its financial analysis.

Interested parties have referred to press reports highlighting the growth in OneSteel's profits. Customs has only examined OneSteel's operations in respect of structural steel, not all its operations.

Interested parties claim that OneSteel is at a disadvantage in that it has to ship product from Whyalla to customers around Australia. OneSteel provided information comparing its freight costs with shipping costs from the nominated countries to refute this claim. Customs is satisfied that transportation costs are higher in respect of imported structural steel.

9.5 Cumulation

Customs has examined the conditions of competition between locally produced structural steel and structural steel from each of the countries under investigation and the conditions of competition between structural steel from each of the countries under investigation. It considers that:

- the physical characteristics were similar;
- they have the same uses and are interchangeable;
- the combined market share of these imports was significant;
- they have common distribution channels; and
- the levels and trends of prices, price undercutting, price depression and price suppression.

Customs therefore considers that imports from these countries should be cumulated in the analysis of causation.

9.6 Conclusion

Customs is satisfied that exports from Korea, South Africa and Thailand have been at dumped prices. This has enabled these goods to be sold at prices that undercut OneSteel's prices, forcing OneSteel to lower its prices to try and maintain market share. However, imports have gained market share at the expense of OneSteel. Price depression, price suppression, reduced sales volume and reduced market share have ultimately resulted in a loss in profits and profitability.

Having regard to the volume of dumped imports, their effect on prices in the Australian market, and their consequent impact on OneSteel, Customs concludes that the dumping of structural steel from Korea, South Africa and Thailand has caused material injury to the Australian industry.

Based on the available evidence, Customs has considered whether the injury to the Australian industry is being caused by other factors. Customs is satisfied that it has not attributed any injury caused by other factors to structural steel exported from Korea, South Africa and Thailand.

10 WILL DUMPING & MATERIAL INJURY CONTINUE?

Section 269TG(2) requires that before action may be taken against future imports the Minister must be satisfied that imports that may occur in the future may be dumped.

10.1 Events since the investigation period

In its submission to Customs, the Australian Steel Association Inc (ASA) claimed that OneSteel and Smorgon Steel (the largest distributor of structural steel in Australia) have agreed to a supply arrangement. The ASA claims that this arrangement was agreed to in October 2001. The ASA submits that such an arrangement provides no valid basis for Customs concluding that future imports will continue to cause injury to OneSteel.

OneSteel has responded to this claim by confirming that it has a preferred supplier arrangement with Smorgon Steel. It claims that it will be forced to lower its price in order to compete with dumped prices in the future.

In accordance with s. 269TEA(2), Customs examined like goods not covered by the application imported into Australia during the period starting on the date of initiation of the investigation and ending 20 days after the SEF was placed on the public record (9 April 2002).

Imports from the nominated countries have fallen, but there has been an increase in imports from other sources. However, the descriptions of the goods in the tariff are broader than the description of the goods nominated by OneSteel in its application. Therefore, Customs is unable to determine if the identified imports are like goods.

10.2 International trends

Information collected during the investigation confirms that there was a downward trend in export prices during the investigation period. The Korean exporter provided information from the Korean Steel Association that the price of imports into Korea from all sources fell during this period. It has provided information to the end of March 2002 to demonstrate that its domestic prices have not recovered.

From 1998 onwards, in reaction to the Asian crisis, the US, which represents about one eighth of the world steel consumption, began to make greater use of trade defence instruments in the steel sector with a view to protecting their domestic producers from competition. As a result of this increase in activity, the US had in place or pending some 164 anti-dumping measures, 41 countervailing duty measures and 2 safeguard measures relating to the steel sector by the end of 2001.

In December 2001 the US ITC recommended import restrictions across a broad range of steel products. On 5 March 2002 the US President announced import restrictions (the Section 201 action), further discouraging imports of steel products into the US. The increasingly protectionist stance adopted by the US in recent years in relation to steel led to a decrease in US steel imports of 33% between 1998 and 2001.

On 28 March 2002 the European Union (EU) announced provisional safeguard measures (tariff quotas) applying to steel products affected by the US action. The action was based on the EU preliminary determination that there was clear evidence that increased imports into the EU would result from the US action and that, without measures, prices would consequently be lower.

It appears that the Section 201 action will have a further depressing effect on world steel prices, as EU estimates indicate that around 15 million tonnes of steel products are subject to the US measures.

Prices in the US have risen as a result of the Section 201 action. However, the increase in US prices has not been matched by an increase in prices from other sources. World prices are unlikely to recover in the short term because of the availability of steel that was destined for the US market.

10.3 Conclusion

On the basis of available evidence, Customs is satisfied that, in the absence of measures, it is likely that dumping and material injury will continue.

11 SUBMISSIONS IN RESPONSE TO THE SEF

Submissions received in response to the SEF have been considered by Customs in making its recommendations to the Minister. The following interested parties made submissions:

- OneSteel;
- the ASA;
- INI;
- Howard Hahn Consulting Group on behalf of SYS;
- Sanwa, and
- Oreport.

OneSteel

The Australian industry raised the following issues in response to the SEF:

- normal values for Korea and Thailand should be assessed using comparable sales volumes for domestic and export sales;
- credit adjustments for issues relating to product quality should be excluded when assessing normal values in Korea and Thailand;
- normal values for Korea should be assessed using the closest comparable grade of structural steel to that exported to Australia;
- the assessment of normal values for Thailand should not include discount sales such as end of financial year clearance sales;
- the assessment of normal values for Thailand should not include discounted domestic sales for secondary export;
- normal values for angles and channels for Korea and Thailand should not be assessed using dumping margins calculated for universal beams and columns - they should be assessed using the best available information, ie information provided in OneSteel's application;
- normal values for angles and channels for South Africa should be assessed using the best available information, ie information provided in OneSteel's application;
- when assessing normal values for Korea and Thailand, the price paid should be adjusted to reflect manufacturing and development costs associated with the manufacture of structural steel for export to Australia;
- when assessing normal values for Korea, the price paid should be adjusted to reflect the opportunity cost associated with sales of surplus export product on the domestic market;
- when assessing normal values for Korea, the price paid should be adjusted to reflect inventory carrying costs in respect of the imported goods;
- when assessing normal values for Korea, the price paid should not be adjusted for domestic credit terms and domestic inland freight;
- when assessing normal values for Thailand, the price paid should be adjusted to reflect the cost differences between grades sold domestically and those exported to Australia;
- when assessing normal values for Thailand, the price paid should not be adjusted for domestic credit terms, warehousing and sales service;

- Customs' verification of steel scrap purchases by SYS was inadequate;
- concern with the process used by Customs to verify whether transactions with local scrap suppliers were at arms length; and
- concern with the process used by Customs to verify whether transactions within the Siam Cement Group were at arms length.

ASA

The ASA raised the following issues in response to the SEF:

- the public file version of the application did not provide interested parties with a reasonable understanding of material injury claims;
- price undertaking proposals offered by exporters should be accepted on the grounds that they remove the appropriate margins of dumping and ensure that future imports are at undumped prices;
- statements contained in section 9.1 of the SEF require clarification;
- the unsuppressed selling price (USP) should not be based on OneSteel's cost to make and sell plus profit;
- any USP calculation should be adjusted down by at least 10% to reflect the costs associated with delivery lead times up to 4 months for imports;
- the non-injurious price (NIP) should be based on imports from Singapore, being the lowest undumped FOB price plus all on-costs;
- alternative products such as tubular steel are competing on price with OneSteel's structural steel products;
- Customs calculation of the Australian market size at section 5.2 of the SEF appears low;
- analysis of profits and price suppression should not be based on a comparison to 1999 due to the OneSteel spin-out.

INI Steel Company

INI in response to the SEF:

- confirmed its willingness to conduct future trading to Australia of the GUC at undumped prices.

Howard Hahn Consulting Group

SYS in response to the SEF:

- confirmed an offer of a price undertaking in accordance with s. 269TEB(1); and
- requested clarification of certain claimed adjustments relating to normal value assessment in Thailand.

Sanwa Pty Ltd

Sanwa raised the following issues in response to the SEF:

- the Australian market size is estimated to be between 350,000 and 400,000 tonnes per annum and certainly no less than 300,000 tonnes per annum at present;

- Customs' decision to cumulate imports from the nominated countries in assessing material injury is incorrect, and
- imports from South Africa did not cause material injury to OneSteel, rather the South African exporters were themselves injured by imports from Korea and Thailand due to lost market share and price undercutting.

Issues raised by all interested parties are discussed in the relevant sections of this report.

12 ANTI-DUMPING MEASURES

12.1 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 a lesser duty is sufficient to remove the injury.

A non-injurious price (NIP) is calculated to determine the level of dumping duty that needs to be applied to dumped imports to remove the injury suffered by the Australian industry. The NIP is defined in s. 269TACA as follows:

"The non-injurious price of goods exported to Australia is the minimum price necessary:

- (a) if the goods are the subject of, or of an application for, a dumping duty notice under subsection 269TG(1) or (2)—to prevent the injury, or a recurrence of the injury, or to remove the hindrance, referred to in paragraph 269TG(l)(b) or (2)(b);"*

This lesser duty provision is contained at Article 9.1 of the World Trade Organisation (WTO) Anti-Dumping Agreement which states that:

"it is desirable that the (anti-dumping) duty be less than the margin (of dumping), if such lesser duty would be adequate to remove the injury to the domestic industry."

Australian legislation reflects the principle of this provision in s. 8(5A) of the *Customs Tariff (Anti-Dumping) Act 1975*, which refers to the desirability of ensuring that the amount of dumping duty is not greater than is necessary to prevent injury to the local industry. This provides:

"The Minister must if the non-injurious price of the goods is less than the normal value of the goods have regard to the desirability of fixing a lesser amount of duty such that the sum of:

- (a) the export price of the goods of that kind so ascertained or last so ascertained; and*
- (b) that lesser duty*

does not exceed that non-injurious price"

Anti-dumping and countervailing duties are based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export. Although the method of calculating a NIP is not defined in the legislation, it is generally derived from the Australian industry's unsuppressed selling price (USP).

In determining the amount of interim dumping duty payable, the Minister must ascertain an export price, a normal value and a NIP for the goods. The interim duty is

based on the difference between the ascertained export price and the lower of the ascertained normal value and the ascertained NIP.

An interim duty is collected on each importation of goods subject to dumping duty notices.

An importer can apply for repayment of any interim duty paid in excess of the actual duty liability. An affected party can seek a review of the interim duty to be paid in future shipments.

12.2 Interim dumping duties

Customs found that numerous suppliers of structural steel from the nominated countries were identified in its commercial database. It has therefore determined interim dumping duties that would apply to all exporters from Korea, South Africa and Thailand. The following paragraphs explain how Customs calculated the interim dumping duties for structural steel.

12.2.1 Ascertained export price

Korea

Customs recommends that the Minister ascertain an export price for universal beams and columns using the weighted average FOB export price over the investigation period.

Customs recommends that the Minister ascertain an export price for channels using the weighted average FOB export price over the investigation period.

INI only exported small volumes of angles from Korea and the latest shipment was in February/March 2001. At that time the export price for angles was similar to the export price for universal beams. Customs therefore recommends that the Minister ascertain an export price for angles and columns using the ascertained export price for universal beams and columns.

South Africa

Customs recommends that the Minister ascertain an export price for universal beams and columns using the weighted average FOB export price over the investigation period.

Customs recommends that the Minister ascertain an export price for channels using the weighted average FOB export price over the investigation period.

Oreport did not export angles from South Africa during the investigation period. Based on price relativities observed in Korea and in respect of domestic sales in South Africa, Customs recommends that the Minister ascertain an export price for angles using the ascertained export price for universal beams and columns.

Thailand

Customs recommends that the Minister ascertain an export price for universal beams and columns using the weighted average FOB export price over the investigation period.

Customs recommends that the Minister ascertain an export price for channels using the weighted average FOB export price over the investigation period.

SYS did not export angles from Thailand during the investigation period. Based on price relativities observed in Korea and South Africa, Customs recommends that the Minister ascertain an export price for angles using the ascertained export price for universal beams and columns.

12.2.2 Ascertained normal value

Korea

Customs recommends that the Minister ascertain a normal value for universal beams and columns using the weighted average of normal values over the investigation period.

INI did not provide information on domestic sales of channels because the volume of exports was a very small proportion of exports to Australia. Customs recommends that the Minister ascertain a normal value for channels using the ascertained export price for channels uplifted by the dumping margin determined for universal beams and columns.

INI did not provide information on domestic sales of angles because the volume of exports was a very small proportion of exports to Australia. Customs recommends that the Minister ascertain a normal value for angles using the ascertained export price for angles uplifted by the dumping margin determined for universal beams and columns.

South Africa

Customs recommends that the Minister ascertain a normal value for universal beams and columns using the weighted average of normal values over the investigation period.

Customs recommends that the Minister ascertain a normal value for channels using the weighted average of normal values over the investigation period.

Oreport did not export angles to Australia. Customs recommends that the Minister ascertain a normal value for angles based on the ascertained export price for angles uplifted by the dumping margin determined for universal beams and columns.

Thailand

Customs recommends that the Minister ascertain a normal value for universal beams and columns using the weighted average of normal values over the investigation period.

SYS did not provide information on domestic sales of channels. It exported parallel flange channels to Australia and sold tapered flange channels on the domestic market. Customs recommends that the Minister ascertain a normal value for channels using the ascertained export price for channels uplifted by the dumping margin determined for universal beams and columns.

SYS did not provide information on domestic sales of angles because it did not export angles to Australia. Customs recommends that the Minister ascertain a normal value for angles using the ascertained export price for angles uplifted by the dumping margin determined for universal beams and columns.

12.2.3 Unsuppressed selling price

A USP is the price at which the Australian industry would be able to sell the goods in a market unaffected by dumped imports. There are a number of options available to establish the USP including:

- the price for locally produced goods when the Australian market was not affected by dumping and adjusting that price to the current date;
- the Australian industry's cost to make and sell plus an estimated profit (if any) that the industry could achieve in a market unaffected by dumping;
- using the lowest Australian domestic price for non-dumped imports, if it can be shown that those imports set the market price or that those imports influence the price; or
- another appropriate method suggested by an interested party.

OneSteel provided Customs with a suggested methodology for calculating a USP. The USP suggested by OneSteel is based on prices prior to 1998, a period OneSteel believes was relatively unaffected by dumping, and indexed to inflation. OneSteel considers that market conditions in this period were relatively similar to the current period.

This is not Customs preferred method. Since 1998, there has been a restructuring of BHP and the subsequent "spin-out" of OneSteel Limited. OneSteel contends that the "spin-out" of OneSteel did not affect the operations of the Whyalla Steelworks. However, a number of interested parties stated that the "spin-out" of OneSteel affected the Australian market for structural steel. Customs is satisfied that recent changes in the Australian and world markets for structural steel make it undesirable to base the USP on historical data.

Customs is unwilling to base any USP calculations on the price of undumped imports. Imports from countries not under investigation accounted for a small proportion of the market in the investigation period. Customs does not consider such imports are likely to have influenced the market price significantly and are therefore not a reasonable basis for determining a USP.

The ASA considers that any USP calculation should be adjusted down by at least 10% to reflect the costs associated with delivery lead times of up to 4 months for imports. No valid reason has been provided to support making such an adjustment. Further, no verifiable information has been provided to quantify such an adjustment.

Customs has calculated the USP based on OneSteel’s verified cost to make and sell plus a rate of profit it could reasonably be expected to achieve in the absence of dumped imports.

Details of the USP and NIPs are at confidential appendix 6.

12.2.4 Non-injurious price calculation

To calculate the NIP, post FOB exportation costs such as: overseas freight and insurance; costs incurred in Australia; and where appropriate an amount for the importer’s profit; are deducted from the USP. An example of this calculation follows.

Unsuppressed selling price		100
Less post exportation costs		
Ocean freight & marine insurance	10	
Duty	5	
Port & broker charges	1	
Cartage to store	2	
SG&A expenses	8	
Profit	10	
Total		36
Non-injurious price		64

Customs used this method to calculate a NIP at the FOB level, based on verified information obtained on Customs visits to the importers.

12.2.5 Interim dumping duties

An interim dumping duty may be ascertained:

- as a proportion of the export price; or
- by reference to a measure of the quantity; or
- by a combination of these methods.

Customs recommends that the interim dumping duty be expressed in dollars per tonne.

Details of the ascertained export prices, ascertained normal values, ascertained NIPs and interim dumping duties are at confidential appendix 7.

12.3 Price undertakings

12.3.1 Developing countries

Article 15 of the WTO Dumping Agreement concerns special regard for developing countries. It states:

It is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti-dumping measures under this agreement.

Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members.

Korea and Thailand are declared developing countries under Part 2 of Schedule 1 to the *Customs Tariff Act 1995*.

The alternative remedies to dumping duties available under the Dumping Agreement and Australia's legislation are price undertakings.

12.3.2 Price undertakings

As an alternative to imposing dumping duty, the Minister may accept a price undertaking from the exporter. An undertaking is an agreement by the exporter to conduct future trade in a manner that will avoid causing material injury to the Australian industry. The Minister may accept an undertaking from an exporter at any time after Customs has made a PAD in respect of goods the subject of an anti-dumping application. By accepting an undertaking, the Minister defers his consideration of whether to publish a dumping duty notice, and the investigation is suspended so far as it relates to the goods exported by that exporter.

In considering the terms of any proposed undertaking, the Minister must have regard to the desirability that any price increase, to which the price undertaking relates, is limited to an amount such that the total price of the goods is not more than the NIP (s. 269TG(5)).

12.3.3 The undertakings offered by INI and SYS

In this case, Customs is satisfied that structural steel exported by INI from Korea and SYS from Thailand has caused material injury to the Australian industry producing like goods. Customs is not recommending, however, that interim dumping duties be imposed on future exports of like goods by INI and SYS. It considers that it is appropriate that the Minister accept price undertakings offered by the exporters in respect of future exports of structural steel.

Customs made a PAD that there were reasonable grounds to publish dumping duty notices in respect of exports of structural steel from Korea, Thailand and South Africa. The decision was notified in the *Australian Financial Review* of 15 April 2002.

INI and SYS have provided signed price undertakings. The undertakings contain the following conditions:

- the undertaking takes effect from the date of the Minister's acceptance thereof and applies to structural steel exported after that date;
- the companies agree to conduct their future trade to Australia in the goods so that exports will not be at dumped prices or to avoid causing or threatening material injury to an Australian industry producing like goods.
- the companies agree not to sell the goods for export to Australia at a price less than that specified in the undertakings;
- the companies agree not to circumvent the undertakings;

- the companies may be required, from time to time, at the request of the Australian government anti-dumping administration, to provide information in relation to the undertaking, and to allow the verification of that information;
- the undertaking may need to be changed from time to time and it may be necessary to enter into a new undertaking; and
- the undertaking lapses should the Minister determine that a dumping duty notice would not have been published in the event that the undertaking had not been accepted.

As noted in section 10.2, world prices are unlikely to recover in the short term because of the availability of steel that was destined for the US market.

Customs recommends that prices suitable for inclusion in the price undertaking should be based on prices during the last six months of the investigation period. The undertakings offered by INI and SYS satisfy this requirement.

If the Minister accepts an exporter's undertaking offer, the exporter must ensure that future export prices are not less than the level agreed upon in the undertaking. Customs monitors the export prices of the goods subject to the undertaking. If at any time the goods are exported at a price lower than that agreed to in the undertaking, consideration will immediately be given to taking securities on the goods pending the resumption of the investigation.

In facilitating the resumption of an investigation after a breach of an undertaking, the Minister may require Customs to conduct the investigation subject to conditions, as the Minister considers appropriate. In determining these conditions, the Minister must have regard to:

- the procedures that had been completed when the undertaking was accepted; and
- the length of time that has elapsed since the acceptance of the undertaking.

13 RECOMMENDATIONS

Customs recommends that the Minister impose country wide anti-dumping measures against Korea, South Africa and Thailand and take anti-dumping action under s. 269TG(1) and s. 269TG(2). Customs further recommends that the Minister accept undertakings offered by INI of Korea and SYS of Thailand.

Subsection 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* provides that the Minister must direct that the interim dumping duty be ascertained as a specific duty, a proportional duty, or some combination of these forms of duty. In this case, Customs recommends that the Minister direct that the interim dumping duty be ascertained by reference to the quantity of the goods (tonnes).

Customs recommends that the Minister be satisfied that:

- in accordance with s. 269TAB(3), sufficient information has not been furnished or is not available to enable the export price of structural steel (angles) for Oreport of South Africa to be ascertained under any preceding subsection of s. 269TAB;
- in accordance with s. 269TAB(3), sufficient information has not been furnished or is not available to enable the export price of structural steel (angles) for SYS of Thailand to be ascertained under any preceding subsection of s. 269TAB;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of structural steel (channels) for INI of Korea to be ascertained under any preceding subsection of s. 269TAC;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of structural steel (angles) for INI of Korea to be ascertained under any preceding subsection of s. 269TAC;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of structural steel (channels) for SYS of Thailand to be ascertained under any preceding subsection of s. 269TAC;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of structural steel (angles) for SYS of Thailand to be ascertained under any preceding subsection of s. 269TAC;
- in accordance with s. 269TACB(4), the weighted average of export prices of structural steel over the investigation period was less than the weighted average of the corresponding normal values in respect of exports by INI of Korea;
- in accordance with s. 269TACB(4), the weighted average of export prices of structural steel over the investigation period was less than the weighted average of the corresponding normal values in respect of exports by Oreport of South Africa;
- in accordance with s. 269TACB(4), the weighted average of export prices of structural steel over the investigation period was less than the weighted

average of the corresponding normal values in respect of exports by SYS of Thailand;

- in accordance with s. 269TG(1), the export price of structural steel that has been exported to Australia from Korea, South Africa and Thailand is less than the amount of the normal value of those goods and because of that, material injury to an Australian industry producing like goods has been caused; and
- in accordance with s. 269TG(2), the export price of structural steel already exported to Australia from Korea, South Africa and Thailand is less than the normal value of those goods and the export price of structural steel that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to an Australian industry producing like goods has been, is being and may continue to be caused.

Customs recommends that the Minister declare that:

- in accordance with s. 269TG(1), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act 1975 applies to exports of structural steel already exported to Australia from Korea, South Africa and Thailand;
- in accordance with s. 269TG(2), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act 1975 applies to exports of structural steel exported to Australia from Korea, South Africa and Thailand after the date of publication of the notice.

Customs recommends that the Minister determine that:

- in accordance with s. 269TAB(1)(c), having regard to all the circumstances of the exportation, the export price for exports of structural steel by INI to Australia from Korea, with the exception of sales made directly to MTC;
- in accordance with s. 269TAB(1)(c), having regard to all the circumstances of the exportation, the export price for exports of structural steel by SYS to Australia from Thailand, with the exception of sales made directly to MTC;
- in accordance with s. 269TAB(3), having regard to all relevant information, the export price of structural steel (angles) for Oreport of South Africa;
- in accordance with s. 269TAB(3), having regard to all relevant information, the export price of structural steel (angles) for SYS of Thailand;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of structural steel (channels) for INI of Korea;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of structural steel (angles) for INI of Korea;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of structural steel (channels) for SYS of Thailand;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of structural steel (angles) for SYS of Thailand;
- in accordance with s. 269TACB(1), by comparison of the weighted average export price and the weighted average normal value over the investigation period, that exports of structural steel by INI of Korea were dumped.
- in accordance with s. 269TACB(1), by comparison of the weighted average export price and the weighted average normal value over the investigation period, that exports of structural steel by Oreport of South Africa were dumped.

- in accordance with s. 269TACB(1), by comparison of the weighted average export price and the weighted average normal value over the investigation period, that exports of structural steel by SYS of Thailand were dumped.

Customs recommends that the Minister direct that:

- in accordance with s. 269TAC(8), the price paid for like goods sold by INI of Korea be adjusted for differences between domestic and export sales in duty drawback, domestic freight, domestic credit, inventory carrying cost, freight to the port in Korea and wharfage, lashing and FOB charges in Korea;
- in accordance with s. 269TAC(8), the price paid for like goods sold by Highveld of South Africa be adjusted for differences between domestic and export sales in credit terms, packing, selling expenses, cost of Oreport's involvement and inland freight and FOB charges to the port in South Africa;
- in accordance with s. 269TAC(8), the price paid for like goods sold by SYS of Thailand be adjusted for differences between domestic and export sales in domestic credit, differences in salesmen's salaries, warehousing, management fees, commissions paid on exports to Australia, inland freight and FOB charges to the port in Thailand; and
- in accordance with s. 8(5) of the Customs Tariff (Anti-Dumping) Act 1975 that interim dumping duties in respect of structural steel the subject of a notice under s. 269TG(1) or s. 269TG(2) be ascertained by reference to a measure of the quantity (in tonnes) of the goods.

Customs recommends that the Minister:

- in accordance with s. 269TG(4), accept the undertaking offered by INI that it will conduct future trade to Australia in like goods so as to avoid causing material injury to the Australian industry producing like goods and defer the decision to publish a dumping duty notice in respect of that exporter; and
- in accordance with s. 269TG(4), accept the undertaking offered by SYS that it will conduct future trade to Australia in like goods so as to avoid causing material injury to the Australian industry producing like goods and defer the decision to publish a dumping duty notice in respect of that exporter.

To give effect to these recommendations, Customs recommends that the Minister sign the attached instrument accepting the recommendations in this report and the attached notices pursuant to s. 8(5) of the *Customs Tariff (Anti Dumping) Act 1975*.

14 EVIDENCE RELIED UPON

In formulating the recommendations in this report, Customs had regard to:

Topic	Section of report detailing facts relied upon	Evidence relied upon
Goods under consideration	4	Industry submission and Standards Australia specifications.
Australian industry	5	Industry submission and information gathered during industry visits.
Australian market	6	Industry submission; information gathered during industry and importer visits, and Customs commercial database.
Export price	7.2	Exporter submission; information gathered during importer and exporter visits, and Customs commercial database.
Normal values	7.3	Exporter submission and information gathered during exporter visit.
Economic condition of the industry	8	Industry and exporter submissions; information gathered during industry, exporter and importer visits, and Customs database.
Has dumping caused material injury?	9	Industry and exporter submissions; data collected during industry, exporter and importer visits, and Customs commercial database.
Will dumping and material injury continue?	10	Industry and exporter submissions; data collected during industry, exporter and importer visits, and Customs commercial database.

15 APPENDICES

- 1* Export prices, normal values and dumping margins
- 2* Analysis of profits and profitability
- 3* Analysis of price undercutting
- 4* Analysis of price suppression
- 5* Australian market
- 6* USP and NIPs
- 7* Ascertained export prices, normal values, NIPs and interim dumping duties

* Confidential appendices not included in the report that is available to the public