



ANTI-DUMPING NOTICE NO 2024/071

Customs Act 1901 – Part XVB

Hot rolled structural steel sections

Exported to Australia from Japan, the Republic of Korea, Taiwan (except by Feng Hsin Steel Co Ltd, TS Steel Co Ltd, and Tung Ho Steel Enterprise Corporation) and the Kingdom of Thailand

Findings of Continuation Inquiry 637 into Anti-Dumping Measures

Public Notice under subsection 269ZHG(1) of the Customs Act 1901 and subsection 8(5) of the Customs Tariff (Anti-Dumping) Act 1975

The Acting Commissioner¹ of the Anti-Dumping Commission (the Commissioner) has completed an inquiry, which commenced on 22 November 2023, into whether the continuation of the anti-dumping measures (the measures) in the form of a dumping duty notice applying to hot rolled structural steel sections (HRSS) exported to Australia from Japan, the Republic of Korea (ROK), Taiwan² and the Kingdom of Thailand (Thailand) is justified. Exports from Feng Hsin Steel Co Ltd, TS Steel Co Ltd and Tung Ho Steel Enterprise Corporation are not covered by this inquiry, as the measures do not apply to those companies' exports of the goods.

The Commissioner's recommendations resulting from the inquiry, reasons for the recommendations, and material findings of fact and law in relation to the inquiry are contained in *Anti-Dumping Commission Report No 637* (REP 637).

I, ED HUSIC, the Minister for Industry and Science, have considered REP 637 and have decided to accept the recommendations and reasons for the recommendations, including all the material findings of facts and law therein and have decided that the measures applying to HRSS exported to Australia from Japan, the ROK, Taiwan and Thailand should continue after 20 November 2024.

¹ References in this document to individuals holding positions with the Anti-Dumping Commission (the commission) are references to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

² Any reference to Taiwan in this notice excludes Feng Shin Steel Co Ltd, TS Steel Co Ltd, and Tung Ho Steel Enterprise Corporation.

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Under subsection 269ZHG(1)(b) of the *Customs Act 1901* (the Act), I **declare** that I have decided to secure the continuation of the measures applying to HRSS exported to Australia from Japan, the ROK, Taiwan and Thailand.

I **determine** that:

- pursuant to subsection 269ZHG(4)(a)(i) of the Act, the notice continues in force after 20 November 2024, and
- pursuant to subsection 269ZHG(4)(a)(iii) of the Act, the notice continues in force after 20 November 2024, but after this day has effect as if different specified variable factors had been fixed in relation to Hyundai Steel Company.

I **determine** that in accordance with subsections 8(5) and 8(5BB) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) and the *Customs Tariff (Anti-Dumping) Regulation 2013* (the Regulation), the interim dumping duty payable on HRSS exported to Australia from Japan, the ROK, Taiwan and Thailand is an amount worked out in accordance with the combination of fixed and variable duty method pursuant to subsections 5(2) and (3) of the Regulation and the *ad valorem* duty method pursuant to subsection 5(7) of the Regulation, as detailed in the table below.

For Hyundai Steel Company, in accordance with section 8(5B) of the Dumping Duty Act, I have had regard to the desirability of specifying a method such that the sum of:

- (i) the export price of goods of that kind as so ascertained or last ascertained, and
- (ii) the interim dumping duty payable on the goods

does not exceed the non-injurious price of goods of that kind as ascertained, or last ascertained, for the purpose of the notice.

The non-injurious price of goods for the purposes of the dumping duty notice is greater than the normal value of goods. Therefore, a lesser amount of duty will not apply.

Particulars of the effective rates of duty for each of the exporters are set out in the following table.

Country	Exporter	Effective rate of interim dumping duty	
		Current rate	After 20 November 2024
Japan	All exporters	12.2% Combination	No change
ROK	Hyundai Steel Company	4.7% Combination	5.2% <i>ad valorem</i>
	All other exporters	7.9% Combination	No change

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Country	Exporter	Effective rate of interim dumping duty	
		Current rate	After 20 November 2024
Taiwan	Dragon Steel Corporation	9.0% Combination	No change
	All other exporters ³	12.3% Combination	No change
Thailand	Siam Yamato Steel Co Ltd	7.8% Combination	No change
	All other exporters	7.7% Combination	No change

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel (www.adreviewpanel.gov.au), in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

REP 637 has been placed on the public record, which is available at www.adcommission.gov.au.

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2525 or email investigations3@adcommission.gov.au.

Dated this day of 2024



ED HUSIC
Minister for Industry and Science

³ Excluding exports by Feng Shin Steel Co Ltd, TS Steel Co Ltd, and Tung Ho Steel Enterprise Corporation.



CUSTOMS ACT 1901 - PART XV B

REPORT NO 637

**INQUIRY INTO THE CONTINUATION
OF ANTI-DUMPING MEASURES ON
HOT ROLLED STRUCTURAL STEEL SECTIONS**

**EXPORTED TO AUSTRALIA FROM
JAPAN, THE REPUBLIC OF KOREA,
TAIWAN (EXCEPT BY FENG HSIN STEEL CO LTD,
TS STEEL CO LTD AND TUNG HO STEEL ENTERPRISE
CORPORATION) AND THE KINGDOM OF THAILAND**

26 September 2024

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ABBREVIATIONS

the Act	<i>Customs Act 1901</i>
ABF	Australian Border Force
ACRS	Australasian Certification Authority for Reinforcing and Structural Steels
ADRP	Anti-Dumping Review Panel
ADN	Anti-Dumping Notice
CBAM	Carbon Border Adjustment Mechanism
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 505	<i>Continuation Inquiry 505</i>
CTMS	cost to make and sell
DCR	dumping commodity register
DDP	delivered duty paid
Dragon Steel	Dragon Steel Corporation
DISR	Department of Industry, Science and Resources
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
EU	European Union
Feng Hsin	Feng Hsin Steel Co Ltd
FOB	free on board
FY	financial year, 1 July to 30 June
GFSEC	Global Forum on Steel Excess Capacity
The guidelines	<i>Guidelines on the Application of Forms of Dumping Duty November 2013</i>
HRSS, or the goods	hot rolled structural steel sections
Hyundai Steel	Hyundai Steel Company
IDD	interim dumping duty
INV 223, the original investigation	<i>Investigation 223</i>
IPP	import parity price
inquiry period	1 October 2022 to 30 September 2023
Liberty Primary	OneSteel Manufacturing Pty Ltd trading as Liberty Primary Steel
The Manual	<i>Dumping and Subsidy Manual (December 2021)</i>
MCC	model control code
the Minister	the Minister for Industry and Science
MPa	Megapascals
NIP	non-injurious price
OECD	Economic Co-operation and Development

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REP 223	<i>Anti-Dumping Commission Report 223</i>
REV 465	<i>Review 465</i>
REV 499	<i>Review 499</i>
REV 642	<i>Review 642</i>
R&D	research and development
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general, and administrative
SSG	Southern Steel Group
SYS	Siam Yamato Steel Co Ltd
TCO	tariff concession order
The Tariff Regulation	<i>Customs Tariff (Anti-Dumping) Regulation 2013</i>
Thailand	the Kingdom of Thailand
TS Steel	TS Steel Co Ltd
Tung Ho	Tung Ho Steel Enterprise Corporation
USA	United States of America
USP	unsuppressed selling price

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report concerns an inquiry into whether to continue the anti-dumping measures (the measures) on hot rolled structural steel sections (HRSS or ‘the goods’) exported to Australia from Japan, the Republic of Korea (ROK), Taiwan (except for exports by Feng Hsin Steel Co Ltd (Feng Hsin), TS Steel Co Ltd (TS Steel) and Tung Ho Steel Enterprise Corporation (Tung Ho))¹ and the Kingdom of Thailand (Thailand) (the subject countries). The measures are a dumping duty notice and are due to expire on 20 November 2024.²

This report sets out the recommendation of the Commissioner of the Anti-Dumping Commission (the Commissioner)³ to the Minister for Industry and Science (the Minister).

1.2 Recommendations

The Commissioner is satisfied that the expiry of the measures would be likely to lead to a continuation or recurrence of dumping and the material injury that the measures are intended to prevent. The Commissioner recommends that the Minister take steps to continue the measures.

The Commissioner recommends that the notice have effect in relation to Hyundai Steel Company (Hyundai Steel) from the ROK as if different variable factors had been ascertained.⁴

The Commissioner recommends the notice remains unaltered in relation to all exporters from Japan, all exporters other than Hyundai Steel from the ROK, all exporters from Taiwan, and all exporters from Thailand.⁵

¹ References to Taiwan in this report should be read to exclude these 3 exempt exporters, unless otherwise specified.

² Section 269TM of the *Customs Act 1901* (the Act). All legislative references are to the *Customs Act 1901*, unless otherwise specified.

³ References in this report to the Commissioner relates to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

⁴ Section 269ZHF(1)(a)(iii).

⁵ Section 269ZHF(1)(a)(i).

1.3 Background to the inquiry (chapter 2)

1.3.1 Application and initiation

OneSteel Manufacturing Pty Ltd trading as Liberty Primary Steel (Liberty Primary) is the applicant seeking to continue the measures.⁶

The Commissioner initiated this inquiry on 22 November 2023 and established an inquiry period of **1 October 2022 to 30 September 2023** (the inquiry period).⁷

1.3.2 Conduct of the inquiry

The Anti-Dumping Commission (commission) is assisting the Commissioner to conduct the inquiry, pursuant to the commission's function specified in section 269SMD.

The Commissioner notified interested parties of the initiation of this inquiry in Anti-Dumping Notice (ADN) 2023/082, published on 22 November 2023. The exporters and importers of HRSS from the subject countries were invited to provide information by completing a questionnaire relevant to the inquiry.

The commission conducted a verification visit of Liberty Primary's premises in Australia in relation to its application.⁸ The commission conducted a verification visit of Hyundai Steel's premises in the ROK in relation to its questionnaire response.⁹

In preparing this report, the Commissioner has had regard to:

- the application seeking the continuation of the measures
- exporter questionnaire responses received from Hyundai Steel from the ROK and Dragon Steel Corporation (Dragon Steel) from Taiwan
- submissions considered prior to the publication of the statement of essential facts (SEF)
- further information obtained during verification visits to Liberty Primary and Hyundai Steel
- submissions received following publication of the SEF
- other information as referenced in this report.

Further information on the conduct of this inquiry is included in chapter 2 of this report.

⁶ Electronic public record (EPR) for case 637, [EPR 637](#), no 1.

⁷ ADN 2023/082, [EPR 637](#), no 2.

⁸ [EPR 637](#), no 10.

⁹ [EPR 637](#), no 14.

1.4 Summary of key findings

The Commissioner's findings and conclusions in this report rely on the information before the commission throughout the inquiry. Sections 1.4.1 to 1.4.7 provide a summary of these findings, which are set out in further detail throughout the report.

1.4.1 The goods, like goods and the Australian industry (chapter 3)

The Commissioner finds locally produced HRSS are 'like' to the goods the subject of the application. The Commissioner is satisfied that there is an Australian industry, comprised of Liberty Primary, producing those like goods.

1.4.2 Australian market (chapter 4)

The Australian HRSS market is supplied by several distributors that source products from the Australian industry or from overseas suppliers. Most of the distributors' HRSS sales are to end users who further process the goods into other products. These end users are in the construction, manufacturing, and mining industries.

The key market segments are distributors, resellers, and end users. HRSS is utilised in the residential, commercial, industrial, transport, infrastructure, and energy sectors.

Australian industry sells the goods directly to a network of national, regional, and state distributors who then on-sell to resellers or directly to end users.

Demand is primarily driven by public infrastructure spending and private capital expenditure (including investment in warehouses and office buildings). The impact of these drivers can be evidenced through movements in the non-residential construction and engineering construction sectors. There are also several areas which indirectly drive demand, including interest rates and population changes.

HRSS manufactured in Australia is made to the same standard and used in the same applications. There is little to differentiate HRSS from different suppliers if it is to be used in the same application. This means that price is the primary differentiating characteristic that HRSS suppliers can offer in the Australian market.

The Australian industry's selling prices are determined based on the import parity pricing (IPP) model plus a local premium. The local premium reflects the benefits of local manufacturing and supply capacity. Liberty Primary's IPP model uses a combination of import prices and an analysis of input and production costs to determine the price. Price is an important factor in the Australian market's purchasing decisions.

1.4.3 Economic condition of the Australian industry (chapter 5)

The Commissioner assessed the economic condition of the Australian industry from year ending September 2013 to year ending September 2023 to analyse trends in the market for HRSS and assessing potential injury factors.

The Commissioner found that that Liberty Primary has experienced a recent decline in its economic condition within the inquiry period. Based on the economic indicators assessed by the commission, the Commissioner considers that Liberty Primary remains susceptible to material injury caused by dumped exports.

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The commission found the following in relation to Liberty Primary's economic condition:

- Following *Continuation Inquiry 505* (CON 505) in November 2019, Liberty Primary's sales volumes peaked in September 2021. Liberty Primary's sales volumes declined into September 2023.
- Liberty Primary's market share has remained relatively stable since CON 505.
- ROK's market share has remained stable.
- Market share from Japan and Taiwan (exports subject to measures) has significantly decreased since CON 505.
- A minor market share for Thailand reappeared in 2023.
- Market share from countries and exporters not subject to measures has increased since CON 505.
- Liberty Primary's revenue has increased since September 2020, but a greater increase in its costs has led to the emergence of price suppression.
- Liberty Primary improved its net profit and profitability from September 2020 to September 2022, but this declined in September 2023.
- Since financial year (FY) 2020 Liberty Primary's research and development (R&D) expenditure has increased.
- Since FY 2019 Liberty Primary has experienced a decrease in the level of investment and value of assets.
- Liberty Primary's return on investment (ROI) has been consistently negative, excluding a positive return in FY2022.

1.4.4 Assessment of dumping during the inquiry period (chapter 6)

For the purposes of this inquiry, the commission has used the information before it to assess whether exports in the inquiry period were dumped, or likely to have been dumped.

Two exporters, Hyundai Steel and Dragon Steel, provided data in the form of a completed exporter questionnaire. The commission has used the data from these companies in assessing whether there was dumping in the inquiry period. As Dragon Steel did not export during the inquiry period, the commission has only assessed the normal value for Dragon Steel.

The commission did not receive any exporter questionnaire responses from exporters from Japan or Thailand. The commission has used the best available information in relation to exports from these countries to assess whether there was dumping in the inquiry period.

The commission's assessment of dumping in the inquiry period is set out in Table 1.

Country	Exporter	Dumping margin
Japan	All exporters	18.6%
ROK	Hyundai Steel	5.2%
Taiwan	Dragon Steel	N/A
Thailand	All exporters	22.5%

Table 1: Assessment of dumping margins

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1.4.5 Likelihood that dumping and material injury will continue or recur (chapter 7)

The Commissioner's view is that the expiry of the measures would lead, or would be likely to lead, to a continuation or recurrence of the dumping and material injury that the measures are intended to prevent.

The Commissioner has reached this view based on the following findings.

Hyundai Steel was the only exporter from the ROK during the inquiry period. The commission has examined Hyundai Steel's exports to assess the likelihood of dumping and material injury continuing or recurring in relation to the ROK.

There were no exports from Taiwan subject to measures during the inquiry period. Dragon Steel provided an REQ although it did not export the goods during the inquiry period. The commission has used the information provided by Dragon Steel in its assessment as to the likelihood of dumping and material injury continuing or recurring in relation to Taiwan. The commission is not aware of any other producers of HRSS in Taiwan that are subject to the measures. Therefore, the commission's analysis is limited to the information provided by Dragon Steel.

The commission did not receive any information from exporters from Japan or Thailand. The commission has used the best available information, including information from Australian Border Force (ABF) import data, to assess the likelihood of dumping and material injury continuing or recurring in relation to Japan and Thailand.

The commission has also used other relevant information from various sources, as detailed in this report.

Likelihood of future exports (section 7.5)

The commission considers that exports from the subject countries are likely to continue if the measures expire. This finding is based on the following facts and considerations:

- Exports of the goods subject to measures from Japan, the ROK, and Thailand have continued since the continuation of the measures in 2019.
- Exporters from the subject countries have maintained, or are able to readily establish, distribution links in the Australian market.
- Exporters from the subject countries have excess production capacity that could be directed towards Australia.
- Exporters from the ROK, Taiwan, and Thailand maintain Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) certification.¹⁰

¹⁰ ACRS certifies that steel is produced to the relevant Australia and New Zealand Standard.

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Likelihood of dumping (section 7.6)

The commission considers that exporters from the subject countries would likely continue or resume dumping if the measures expire. This finding is based on the following facts and considerations:

- The goods exported from the subject countries were dumped in the original investigation and the period examined in *Review 499* (REV 499), being 1 January 2018 to 31 December 2018.
- The commission estimates that goods exported from Japan and Thailand during the inquiry period were likely dumped, based on the best available information, being ABF import data and domestic steel price data.
- The commission has calculated that goods exported from Hyundai Steel from the ROK during the inquiry period were dumped, based on verified information.
- The commission considers that exports from Taiwan that are subject to the measures are likely to recur at dumped prices if the measures expire. This is based on an analysis of information provided by Dragon Steel.
- The commission found that if Dragon Steel was to export at the same prices as exports from Taiwan not subject to measures, its exports are not likely to be dumped by a small margin. However, Dragon Steel's competition with exporters from Taiwan that are not subject to measures would likely lead to Dragon Steel reducing its prices below its normal value to win sales volume. A small reduction in export price, which the commission considers would be likely given the price sensitive nature of the Australian market, would lead to a recurrence of dumping.
- The price sensitive nature of the Australian HRSS market promotes a high level of competition between exports from the subject countries. This price competition means that there will be increased downwards pressure on export prices if the measures expire. A decrease in export prices means that dumping (that the measures are intended to prevent) is likely to continue or recur.

Likelihood of material injury (section 7.6)

The commission considers that exports of the goods from the subject countries at dumped prices are likely to continue to cause material injury (that the measures are intended to prevent) if the measure expire. This finding is based on the following facts and considerations:

- Exports from the subject countries have undercut Liberty Primary's selling prices during the inquiry period.
- Liberty Primary has considerable regard to import prices through its IPP model.
- The expiry of measures would enable exporters from the subject countries to take advantage of the absence of pricing restrictions in a price sensitive market.
- A reduction in import prices as exporters seek to compete in a market absent of measures would likely result in an increase in import volumes from the subject countries.
- The excess capacity of exporters provides them with the ability to export material volumes, or to increase existing exports further.
- The decrease in import prices and increase in import volumes would likely cause material injury to Liberty Primary.

1.4.6 Variable factors¹¹

Export price and normal value (chapter 8)

The Commissioner recommends ascertaining new variable factors of export price and normal value for Hyundai Steel based on Hyundai Steel's verified data.

The Commissioner is not recommending a change to the variable factors for:

- all exporters from Japan
- all other exporters from the ROK
- all exporters from Taiwan
- all exporters from Thailand.

When determining whether new variable factors should be ascertained in a continuation inquiry, the commission will consider the information before it, including responses to exporter questionnaires. The presence or absence of exports during the inquiry period is another relevant factor as to whether new variable factors are ascertained.

The commission considers that the Dumping Duty Notice (ADN 2019/125) in REV 499 remains reliable evidence to support the levels of dumping for Dragon Steel, and for Japanese and Thai exporters also, and consequently the commission has not altered the variable factors for these exporters during this inquiry.

The commission will examine whether the variable factors applying to exports of HRSS from Japan, the ROK, Taiwan, and Thailand have changed as part of a review of measures in *Review 642* (REV 642). The SEF for Review 642 is currently due 29 November 2024.

Non-injurious price (chapter 9)

The Commissioner does not recommend that the Minister apply the lesser duty rule. This is because the non-injurious price (NIP) for Hyundai Steel is higher than the normal value.

The commission calculated the NIP by deducting verified post-exportation costs for Hyundai Steel, and verified post-importation costs, importer selling, general and administrative (SG&A) expenses and profit from REV 499¹² from the unsuppressed selling price (USP) determined in this inquiry.¹³ The commission calculated the USP using Liberty Primary's verified cost to make and sell (CTMS) during the inquiry period.

¹¹ The variable factors in relation to a dumping duty notice are the export price, normal value, and NIP.

¹² The commission did not receive any importer participation in this inquiry and therefore has relied on the best information available in relation to these inputs to the NIP calculation.

¹³ The USP is a selling price that the Australian industry could reasonably achieve in the absence of dumping or subsidised imports.

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1.4.7 Duty method (chapter 10)

The Commissioner recommends the interim dumping duty (IDD) and duty methods as set out in Table 2.

Country	Exporter	Current measures	Recommended measures
Japan	All exporters	12.2% Combination	No change
ROK	Hyundai Steel	4.7% Combination	5.2% <i>ad valorem</i>
	All other exporters	7.9% Combination	No change
Taiwan	Dragon Steel	9.0% Combination	No change
	All other exporters ¹⁴	12.3% Combination	No change
Thailand	Siam Yamato Steel Co Ltd	7.8% Combination	No change
	All other exporters	7.7% Combination	No change

Table 2: Current and recommended duty methods and measures

The Commissioner recommends that the IDD payable on the goods exported by Hyundai Steel be worked out using the *ad valorem* duty method.¹⁵

This represents a change to the preliminary recommendation in the SEF which recommended the combination of fixed and variable duty method (combination method).

The Commissioner is now recommending the *ad valorem* method as:

- import prices in the Australian market have begun to fall following the inquiry period, indicating a falling market (the *ad valorem* method is preferable to the combination method in falling markets)
- Hyundai Steel is now the importer of the goods that it exports to Australia (as it handles all into store costs) and regularly seeks duty assessments
- there is no history of circumvention activity by Hyundai Steel
- Hyundai Steel’s sales to its Australian customers are arms length
- Hyundai Steel’s Australian sales do not involve any related parties.

¹⁴ Excluding Feng Hsin Steel Co Ltd, TS Steel Co Ltd and Tung Ho Steel Enterprise Corporation, whose exports are not subject to the measures.

¹⁵ The commission considers the [Guidelines on forms of dumping duties](#) when determining the form of duties to be recommended to the Minister.

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These factors combined indicate that:

- the variable component of the combination method could lead to a circumstance where IDD is collected in excess of the amount required to remedy the injurious effects of dumping, when the export price falls below the floor price due to falling prices in the market and not because of dumping
- Hyundai Steel has an incentive to maintain its export price above its normal value to maximise its duty refunds
- there is a low risk of circumvention because of Hyundai Steel's past behaviour and arms length Australian sales. This removes one of considerations for a combination method, which can be suited to complex company structures and where circumvention is likely.

The Commissioner does not recommend any change to the form of measures for other exporters subject to the measures for the same reason that they do not recommend a change to the variable factors.

2 BACKGROUND

2.1 Framework

The procedures to be followed by the Commissioner in an application for the continuation of anti-dumping measures are set out in Division 6A of Part XVB of the Act.¹⁶

2.1.1 Legislative test

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

2.1.2 Statement of essential facts

Section 269ZHE(1) requires the Commissioner to publish a statement of the facts on which they propose to base their recommendations to the Minister about the continuation of the measures. This is referred to as the SEF.

Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to have regard to the application and any submissions received within 37 days of the initiation of the inquiry. Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the 37 days if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the EPR.

The Commissioner may also have regard to any other matters they consider relevant.

The Commission placed the SEF on the public record on 26 July 2024.¹⁷

2.1.3 Final report

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice:

- remain unaltered
- cease to apply to a particular exporter or to a particular kind of goods
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained
- expire on the specified expiry day.

¹⁶ Any reference to a Division in this report is to a Division under Part XVB of the Act.

¹⁷ [EPR 637](#), no 17.

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In deciding on the recommendation to be made to the Minister in their final report, the Commissioner must have regard to:

- the application
- submissions relating generally to the continuation of measures considered by the Commissioner in formulating the SEF
- any submission responding to the SEF received within 20 days of publication of the SEF.¹⁸

The Commissioner is not obliged to have regard to any submission made in response to the SEF that is received after the 20 days if to do so would, in the Commissioner's opinion, prevent the timely preparation of the report to the Minister.¹⁹

The Commissioner may also have regard to any other matter they consider relevant.²⁰

The final report to the Minister must include a statement of the Commissioner's reasons for any recommendation contained in the report, set out the material findings of fact on which the recommendation is based, and provide particulars of the evidence relied on to support those findings.²¹

The initiation notice advised that the Commissioner would provide a report to the Minister on, or before, 25 April 2024. The Commissioner approved an extension of time to provide the Minister a report on or before 27 September 2024.²²

2.2 Application and initiation

On 20 September 2023, the Commissioner published a notice on the commission's website inviting the following persons to apply for the continuation of the measures:²³

- The person whose application under section 269TB resulted in the measures.²⁴
- Persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the measures.²⁵

¹⁸ Section 269ZHF(3)(a).

¹⁹ Section 269ZHF(4).

²⁰ Section 269ZHF(3)(b).

²¹ Section 269ZHF(5).

²² [EPR 637](#), ADN 2024/047, no 16.

²³ In accordance with section 269ZHB(1).

²⁴ Section 269ZHB(1)(b)(i).

²⁵ Section 269ZHB(1)(b)(ii).

PUBLIC RECORD

On 16 October 2023, Liberty Primary lodged an application for the continuation of the measures.²⁶ Liberty Primary is the person whose application under section 269TB resulted in the measures.²⁷

The Commissioner was satisfied that:

- the application complied with section 269ZHC (content and lodgement requirements)²⁸
- there appeared to be reasonable grounds for asserting that the expiry of the measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.²⁹

The Commissioner therefore decided not to reject the application and published ADN 2023/082 initiating the inquiry on 22 November 2023.³⁰

²⁶ Under section 269ZHC. A non-confidential version of the application is available on the commission's website. [EPR 637](#), no 1.

²⁷ [EPR 223](#), no 1.

²⁸ Section 269ZHD(2)(a).

²⁹ Section 269ZHD(2)(b).

³⁰ [EPR 637](#), no 2.

2.3 Current measures

2.3.1 The measures

The measures were initially imposed by public notice on 20 November 2014 by the then Parliamentary Secretary to the Minister for Industry following *Investigation 223* (INV 223, the original investigation). The findings of INV 223 are detailed in *Anti-Dumping Commission Report 223* (REP 223).³¹

Table 3 summarises the measures currently applying to exports of the goods to Australia from the subject countries.

Country	Exporter	Dumping notice	
		Duty method	Fixed IDD rate
Japan	All Exporters	Combination fixed and variable duty method	12.2%
ROK	Hyundai Steel Company	Combination fixed and variable duty method	4.7%
	All Other Exporters	Combination fixed and variable duty method	7.9%
Taiwan	Dragon Steel Corporation	Combination fixed and variable duty method	9.0%
	Feng Hsin Steel Co Ltd	Exempt	Exempt
	TS Steel Co Ltd	Exempt	Exempt
	Tung Ho Steel Enterprise Corporation	Exempt	Exempt
	All Other Exporters	Combination fixed and variable duty method	12.3%
Thailand	Siam Yamato Steel Co Ltd	Combination fixed and variable duty method	7.8%
	All Other Exporters	Combination fixed and variable duty method	7.7%

Table 3: Current measures

³¹ [EPR 223](#), no 96.

PUBLIC RECORD

Further detail about these measures can be found on the Dumping Commodity Register (DCR) on the commission's website.³²

2.3.2 Past cases

The commission has conducted numerous cases relating to HRSS. An overview of these cases is set out in Table 4.³³ Further details can be found on the commission's website.

Case number	ADN number	Date published	Country of export	Findings
Investigation 223	2014/127	20 November 2014	Japan ROK	Measures imposed (excluding on Feng Hsin)
	Public Notice – Parliamentary Secretary's Decision	7 August 2015	Taiwan Thailand	Change to variable factors for Siam Yamato Steel Co Ltd
Accelerated Review 359	2016/097	18 October 2016	Taiwan	Form of measures changed for Dragon Steel Corporation
Review 345 and 346	2016/098	19 October 2016	Taiwan Thailand	Change to variable factors for certain exporters
Review 465	2018/167	14 December 2018	ROK	Change to variable factors for exporters from the ROK
Exemption EX0077	2019/153	20 December 2019	Japan ROK Taiwan Thailand	Exemption granted for goods under TCO no 19104997
Review 499	2019/125	11 November 2020	Japan ROK	Change to variable factors for certain exporters
	Public Notice – Minister's Decision	6 April 2021	Taiwan Thailand	Change to variable factors for certain exporters
Continuation 505	2019/126	11 November 2019	Japan ROK	Continuation of measures for certain exporters Expiry of measures for Tung Ho Steel Enterprise Corporation
	Public Notice – Minister's Decision	6 April 2021	Taiwan Thailand	Continuation of measures and change of variable factors for certain exporters Expiry of measures for TS Steel Corporation

Table 4: Past cases

³² [Current measures in the DCR.](#)

³³ This table excludes duty assessments.

2.4 Conduct of the inquiry

The inquiry period for this inquiry is 1 October 2022 to 30 September 2023. The commission invited exporters and importers of HRSS to provide information relevant to this period.

To analyse the performance of the Australian industry in the years before and after measures were imposed, the commission has examined the period from year ending September 2013 to year ending September 2023.

2.4.1 Questionnaires and verification

Australian industry

The Commissioner is satisfied that the applicant, Liberty Primary, is the sole member of the Australian industry producing like goods to the goods the subject of this inquiry.³⁴

The commission conducted a verification visit to Liberty Primary's premises in February 2024. The resulting verification report is available on the EPR.³⁵

Importers

The commission identified importers from the ABF import database that imported HRSS from the subject countries during the inquiry period. The commission sent a questionnaire to Southern Steel Trading Pty Ltd (Southern Steel).

The commission also placed a copy of the importer questionnaire on the commission's website for completion by other importers who were not contacted directly.

The commission did not receive any responses to the importer questionnaire.

Exporters

The commission identified the largest suppliers of HRSS from the ROK and Thailand during the inquiry period as reported in the ABF import database. The commission sent questionnaires to the following identified exporters:

- Hyundai Steel
- Siam Yamato Steel Co Ltd (SYS)

The commission also placed a copy of the exporter questionnaire on the commission's website for completion by other exporters who were not contacted directly.

³⁴ See chapter 3.

³⁵ [EPR 637](#), no 10.

PUBLIC RECORD

The commission received two responses to the exporter questionnaire (REQ) listed in Table 5. The non-confidential versions of the REQs and the verification reports (if applicable) are available on the commission's website.³⁶

EPR number	Interested party	Country	Date received
5	Dragon Steel	Taiwan	30 January 2024
6	Hyundai Steel	ROK	29 January 2024

Table 5: Exporter questionnaire responses received

The commission did not receive any REQs from exporters from Japan or Thailand.

2.4.2 Submissions received from interested parties

Submissions received before the SEF

The commission received the submissions listed below before publishing the SEF (published on 26 July 2024).

EPR number	Interested party and topic of submission	Date received
3	Sanwa Pty Ltd – Response to Liberty Primary's application	10 January 2024
7	Liberty Primary – Response to Hyundai Steel and Dragon Steel's REQ	4 March 2024
8	Liberty Primary – Exporter visit briefing	11 March 2024
12	Southern Steel Group (SSG) – Liberty Primary's production shutdown	17 June 2024
13	Dragon Steel Corporation – Likelihood of material injury	23 June 2024
15	Liberty Primary – Response to SSG's submission dated 17 June 2024.	2 July 2024

Table 6: Submissions received before the SEF

³⁶ [EPR 637](#), no's 5 and 6.

PUBLIC RECORD

Submissions received after the SEF

The commission received the submissions listed below after publication of the SEF.

EPR number	Interested party and topic of submission	Date received
18	Hyundai Steel – Treatment of interim dumping duty	13 August 2024
19	Liberty Primary – Response to SEF 637	15 August 2024
20	Dragon Steel – Response to SEF 637	15 August 2024
21	Hyundai Steel – Form of measures and non-injurious price	15 August 2024
22	Liberty Primary – Exporter responses to the SEF	26 August 2024
23	Hyundai Steel – Response to Liberty Steel submission	30 August 2024

Table 7: Submissions received after the SEF

The Commissioner has had regard to all submissions listed in making their findings outlined in this report. The submissions are addressed throughout this report.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Finding

The Commissioner finds that:

- locally manufactured HRSS are 'like' to the goods subject to the measures
- there is an Australian industry, of which Liberty Primary is the sole member, producing like goods
- the like goods are wholly or partly manufactured in Australia.

3.2 Legislative framework

To be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping and the material injury that the measure is intended to prevent, the Commissioner firstly determines whether the goods produced by the Australian industry are 'like' to the imported goods.

Section 269T(1) defines like goods as:

...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

The definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiry of the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent. The commission's framework for assessing like goods is outlined in chapter 2 of the *Dumping and Subsidy Manual* (the Manual).³⁷

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other. The Commissioner considers:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

The Commissioner must also consider whether the Australian industry manufactures 'like' goods in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

³⁷ Available [here](#) on the commission's website.

PUBLIC RECORD

The following analysis therefore establishes the scope of the commission's inquiry.

3.3 The goods subject to the measures

3.3.1 Definition of the goods

ADN 2023/082 defines the goods subject to the measures as follows:

Hot rolled structural steel sections in the following shapes and sizes, whether or not containing alloys:

- universal beams (I sections), of a height greater than 130 mm and less than 650 mm
- universal columns and universal bearing piles (H sections), of a height greater than 130 mm and less than 650 mm
- channels (U sections and C sections) of a height greater than 130 mm and less than 400mm
- equal and unequal angles (L sections), with a combined leg length of greater than 200 mm.

Sections and/or shapes in the dimensions described above, that have minimal processing, such as cutting, drilling or painting do not exclude the goods from coverage of the investigation.

The goods subject to the measures do not include:

- hot rolled 'T' shaped sections, sheet pile sections and hot rolled merchant bar shaped sections, such as rounds, squares, flats, hexagons, sleepers and rails
- sections manufactured from welded plate (e.g. welded beams and welded columns).

3.3.2 Exempt goods

Exports of certain HRSS which fall under the goods description are exempt from the measures.

PUBLIC RECORD

Ministerial Exemption Instrument No. 5 of 2019 exempted goods which are covered by Tariff Concession Order 19104997.³⁸ These goods are:

UNEQUAL ANGLES, hot-rolled steel sections, complying with Australian and New Zealand standard AS/NZS 3679:1:2016, Grade 300 OR Grade 350, having EITHER of the following:

- (a) leg size 150 mm x 90 mm having ANY of the following:
 - (i) thickness being 8 mm OR 10 mm OR 12 mm;
 - (ii) lengths of 9 m OR 10.5 m OR 12 m,

- (b) leg size 150 mm x 100 mm having ANY of the following:
 - (i) thickness being 10 mm OR 12 mm;
 - (ii) lengths of 9 m OR 10.5 m OR 12 m

3.3.3 Tariff classification

The goods are generally classified according to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:³⁹

Tariff code	Description		
7216	ANGLES, SHAPES AND SECTIONS OF IRON OR NON-ALLOY STEEL:		
7216.3	U, I or H sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more:		
	Statistical code	Unit	Description
7216.31.00	30	tonnes (t)	U sections
7216.32.00	31	t	I sections
7216.33.00	32	t	H sections
7216.40.00	33	t	L or T sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more

Table 8: Tariff classification of the goods

Goods identified as hot rolled alloy steel sections, as per the shapes and sizes described in section 3.3.1, are classified to tariff subheading 7228.70.00 (statistical codes 11 and 12) in schedule 3 of the *Customs Tariff Act 1995*.

³⁸ [EPR EX0077](#), no 4, *Exemption Instrument No 5 of 2019*.

³⁹ These tariff classifications and statistical codes may include goods that are both subject and not subject to the measures. The listing of these tariff classifications and statistical codes is for convenience or reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail about goods subject to the measures.

3.4 Model control codes

3.4.1 Proposed model control code at initiation

The proposed model control code (MCC) structure provided in ADN 2023/082 describes the key characteristics of the goods.

Category	Sub-category	Identifier	Sales data	Cost data
Prime	Prime	P	Mandatory	N/A
	Non-prime	N		
Shape ⁴⁰	Universal Beams ('I' sections)	I	Mandatory	Mandatory
	Universal Columns and Universal Bearing Piles ('H' sections)	H		
	Channels ('U' or 'C' sections)	C		
	Angles (Equal and Unequal Angle sections)	A		
Minimum yield strength	Less than 265 MPa	A	Mandatory	Mandatory
	Greater than or equal to 265 MPa	B		
Tensile strength	Less than 400 MPa	A	Optional	Optional
	Greater than or equal to 400 MPa and less than 450 MPa	B		
	Greater than or equal to 450 MPa and less than 500 MPa	C		
	Greater than or equal to 500 MPa	D		
Thickness	Minimum cross-sectional thickness less than 11 mm	1	Optional	Optional
	Minimum cross-sectional thickness greater than or equal to 11 mm	2		
Dimension	Beam or section height less than 230 mm	S	Optional	Optional
	Beam or section height equal to or greater than 230 mm	L		
Weldability	Carbon equivalent value specified in relevant standard	Y	Optional	Optional
	Carbon equivalent value not specified in relevant standard	N		

Table 9: Model control code structure

⁴⁰ See section 3.4.2.2 for amendments to the MCC structure for Hyundai Steel only.

3.4.2 Modifications to the MCC structure

The commission has made the following adjustments to the MCC structure for the Hyundai Steel and Dragon Steel.

Hyundai Steel

Hyundai Steel proposed a modification to the MCC shape category during the verification. The commission has accepted this proposal and modified the MCC structure for Hyundai Steel.

Hyundai Steel reported all sales of universal beam and columns under shape sub-category 'H'. Hyundai Steel explained that it does not consider that there is a price difference between universal beams and columns. Hyundai Steel sells a separate 'I-beam' product on the domestic market, which it classified under the MCC shape category 'I'.

The commission examined Hyundai Steel's domestic and export sales of universal beams and columns and is satisfied that there is little to no difference in the price that would affect comparability. Accordingly, the commission accepts Hyundai Steel's classification of all universal beams/columns in MCC shape category 'H'.

The commission also found that the I-beams that Hyundai Steel sells in its domestic market are distinct from other universal beams and columns. These I-beams are not exported to Australia. The commission accepts Hyundai Steel's classification of I-beams in MCC shape category 'I'.

The commission has assessed the dumping margin for Hyundai Steel using these classifications.

Dragon Steel

Dragon Steel proposed an additional MCC sub-category for thickness to represent an additional category for cross-sectional thickness (thickness sub-category '3').⁴¹ This proposal was part of Dragon Steel's confidential REQ. The commission considers that it is appropriate to disclose the relevant MCCs for the purposes of assessing Dragon Steel's proposal.

To assess Dragon Steel's claim, the commission compared selling prices for the models P-H-B-B-**2**-L-Y and P-H-B-B-**3**-L-Y (relevant MCC change in **bold**). These models were selected as they would be comparable to models exported to Australia. The commission examined whether there was a significant difference in pricing such that it would affect comparability between the two models. The commission found that prices were comparable between the two models. The commission considers that indicates that models with the thickness category '3' can be compared to models with thickness category '2' (where the other MCC categories are the same).

⁴¹ Dragon Steel REQ, [EPR 637](#), no 5, section C-2.2, pp 20-21.

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The commission has included model P-H-B-B-3-L-Y in its calculation of the normal value for Dragon Steel.

3.5 Like goods

The Commissioner is satisfied that the domestically produced goods are like to the goods under consideration because the following characteristics of each closely resemble each other:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

The commission has relied on information provided during the conduct of this inquiry and past cases involving the goods.

3.5.1 Physical likeness

The goods and local HRSS are similar in physical appearance and specification, noting that they come in various shapes, sizes, grades, thicknesses, and lengths. They also conform to the same Australian/New Zealand Standard. Major exporters and Liberty Primary hold ACRS certification. While ACRS certification is not mandatory, it is generally preferred in the market. ACRS certifies that the product conforms with Australian/New Zealand Standards.

3.5.2 Commercial likeness

In the Australian market, HRSS that Liberty Primary produces competes directly and indirectly with HRSS imported from the subject countries. Liberty Primary and importers sell HRSS to common customers and on similar commercial terms or conditions. Both Liberty Primary and importers compete on price, as discussed in section 4.5.

Based on this, the commission considers the locally produced goods to be commercially like to the goods subject to measures.

3.5.3 Functional likeness

The HRSS that Liberty Primary produces is highly interchangeable or substitutable with the goods subject to measures, given that both goods are sold to the same customers, and for identical or comparable end uses. End uses of HRSS in Australia is discussed in section 4.4.

Based on this, the commission considers that the locally produced goods and the goods subject to measures perform the same function and are used in the same end-use applications.

3.5.4 Production likeness

The commission considers that the locally produced goods and the goods subject to measures are produced using similar production processes and similar raw material inputs. This is based on the production processes the commission observed during verification activities and based on the commission's understanding of the production process from past cases.

3.6 Australian industry – domestic production

Liberty Primary are the sole producers of HRSS in Australia, in addition to other hot rolled products (such as rail).

Liberty Primary manufactures HRSS in a range of shapes, sizes, grades, thicknesses, and lengths at its structural mill in Whyalla, South Australia. The broad categories of HRSS are universal beams and columns (I-beams or H-beams respectively), equal and unequal angles, and parallel flange channels (PFC).

3.6.1 Production process

Liberty Primary currently produces iron for steel making using a blast furnace. For iron produced in a blast furnace, the two main raw materials are iron and coke.

Iron is sourced in the form of iron ore or iron pellets, and coke is either produced from coal or imported. Liberty Primary produced its own coke from coal prior to September 2023.

Stage 1 – Coke making (no longer in operation)

Coking coal is converted to coke through a heating process in coke ovens. A hot car with baked coke is loaded into the quenching tower and cooled with water. After cooling it is crushed and subject to screening. The coke is then transported by conveyor to the blast furnace to be used in the production of iron.

Stage 2 – Iron making

Molten pig iron is made in a blast furnace from pellets and lumps of iron ore and coke. This is a systematic 'charging' process where the blast furnace is charged with the 'ingredients' (primarily iron and coke). The blast furnace is heated through the addition of oxygen enriched air which helps the coke to burn at the required temperatures. Liquid iron then sinks to the bottom of the blast furnace due to being a higher density than the other materials. The liquid iron is then removed from the furnace by drilling a hole in certain locations (tapping), which allows the liquid iron to flow out into troughs. Any slag (impurities produced during the process) that also flows out is taken away to landfill or processed to remove any residual iron. Liquid iron produced at this stage contains high levels of carbon.

PUBLIC RECORD

Stage 3 – Steel making

First, the molten pig iron is transferred via a rail car to the Basic Oxygen Steelmaking (BOS) vessel to produce raw steel. Scrap steel is also added. Oxygen is injected at supersonic speeds to remove carbon and other impurities from the raw steel. Primary alloys are also added at this stage. Slag is also produced and discarded, in a similar process as for iron making.

The raw steel is then moved to a secondary treatment. This stage is where the chemical composition of the steel is finalised to meet the grade specifications. Additional alloys are added to ensure that the specifications are met.

Once the required specifications are met, the steel is sent to the caster.

Stage 3 – Casting

The molten steel is poured into a combi-caster which produces slabs, blooms or billets in various lengths, widths, and heights. Blooms are the feed for the rolling mill and are stored in the bloom yard until required.

Stage 4 – Rolling mill

Blooms are heated in a furnace to the required temperature prior to rolling. Blooms are extracted from the reheat furnace, descaled and transferred to the rolling stands. Rolling stands contain a combination of horizontal and/or vertical rolls that are used to shape the products. The rolls are unique for each section, being the primary rougher, secondary rougher, universal forming, and finishing mill. After passing through each stand, the sections are cut to intermediate length with a 'hot saw' and then moved to cooling beds.

Each product shape will use a different set of rollers. Due to this, a large production run is typically completed before a rolling change.

Liberty Primary explained during the visit that the rolls will wear out regularly. As the rolls wear, they need to be machined back to a useable state. In this way, larger rolls may be machined as they wear to be reused for smaller shapes.

Stage 5 – Shapes finishing end

After the intermediate sections are cooled, they are finished by passing through a straightening stand. Each section is then marked with identifiers and the product is inspected. The product is then cut to the customer's length with a cold saw. After cutting, the product is bundled and labelled. The label contains information on shape, size, grade, and metre weight.

3.6.2 The Commissioner's finding

Based on the commission's analysis, the Commissioner is satisfied that:

- the like goods were wholly or partly manufactured in Australia
- there is an Australian industry which produces like goods in Australia.

4 AUSTRALIAN MARKET

4.1 Findings

The Australian HRSS market is supplied by several distributors that source products from the Australian industry or from overseas suppliers. Most of the distributors' HRSS sales are to end users who further process the goods into other products. These end users are in the construction, manufacturing, and mining industries.

4.2 Approach to analysis

The analysis in this chapter is based on verified financial information submitted by Liberty Primary and data captured in the ABF import database.

4.3 Market structure

The key market segments are distributors, resellers, and end users. HRSS is utilised in the residential, commercial, industrial, transport, infrastructure, and energy sectors.

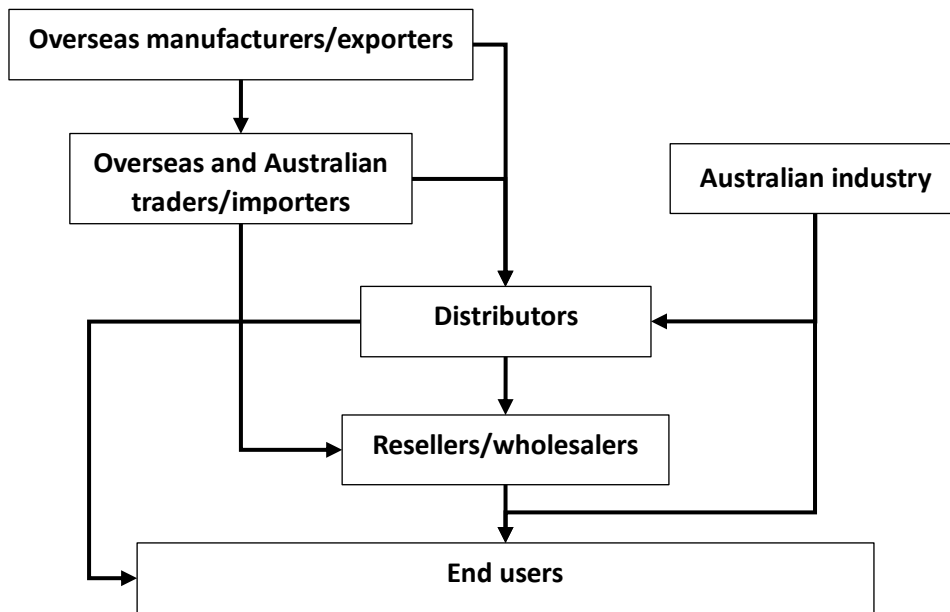


Figure 1: Australian market structure for HRSS

The Australian industry sells the goods directly to a network of national, regional, and state distributors who then on-sell to resellers or directly to end users.

4.4 Key drivers of demand

Demand for HRSS is primarily driven by public infrastructure spending and private capital expenditure (including investment in warehouses and office buildings). The impact of these drivers is most evidenced through movements in the non-residential construction and engineering construction sectors.

There are also several areas which indirectly drive demand, including:

- interest rates – can influence public/private spending
- land prices – can influence the viability of new construction projects
- labour utilisation and participation (employment) rates – can increase demand for warehousing, office building and infrastructure
- population and immigration changes (current and forecast) – can increase demand for infrastructure.

4.5 Market competition

HRSS used in Australia is predominantly manufactured to the same standard (AS/NZS 3679.1) and used in the same applications (primarily construction). There is little to differentiate HRSS from different suppliers if it is to be used in the same application.

Price (including any inland transport) is the primary differentiating characteristic that HRSS suppliers can offer in the Australian market. Customers frequently purchase from multiple different suppliers (including Liberty Primary and exporters) and will reference pricing from different suppliers to obtain the best price.

As depicted in Figure 1, Liberty Primary competes with overseas manufacturers, exporters and traders, and Australian traders and importers for the sale of HRSS.

4.6 Market pricing

The commission has previously found that the Australian market for HRSS is price sensitive with a high degree of price elasticity.⁴² The commission considers that this remains the case, as:

- due to HRSS being produced to the Australian Standard, there is little to no differentiation other than price
- pricing from various sources is relatively transparent, with customers having visibility of market offers
- landed import prices follow a similar pattern and fall within a small range
- the volume of imports increases as the price decreases
- Liberty Primary continues to set its prices using an IPP model.

Liberty Primary's selling prices are determined based on the IPP model plus a local premium. The local premium reflects the benefits of local manufacturing and supply capacity. Liberty Primary's IPP model uses a combination of import prices and an analysis of input and production costs to determine the price.

Liberty Primary provided the commission with an example of its IPP model for the inquiry period at **Confidential Attachment 13**.

⁴² Report no 223 ([EPR 223](#), no 96) and Report no 505 ([EPR 505](#), no 59).

4.7 Market size

The commission has estimated the size of the Australian market using verified data from Liberty Primary and data from the ABF import database.

The data for the commission’s estimation of the Australian market is at **Confidential Attachment 1**.

Figure 2 depicts the volume of the Australian HRSS market with respect to the Australian industry, exporters subject to measures, and all other sources not subject to measures. Figure 2 shows:

- Liberty Primary’s volume has increased since CON 505 in 2019.
- ROK’s volumes have remained stable, while volumes from the other subject countries have significantly decreased.
- A minor volume from Thailand reappeared in 2023.
- Volume from countries and exporters not subject to measures has increased since CON 505.

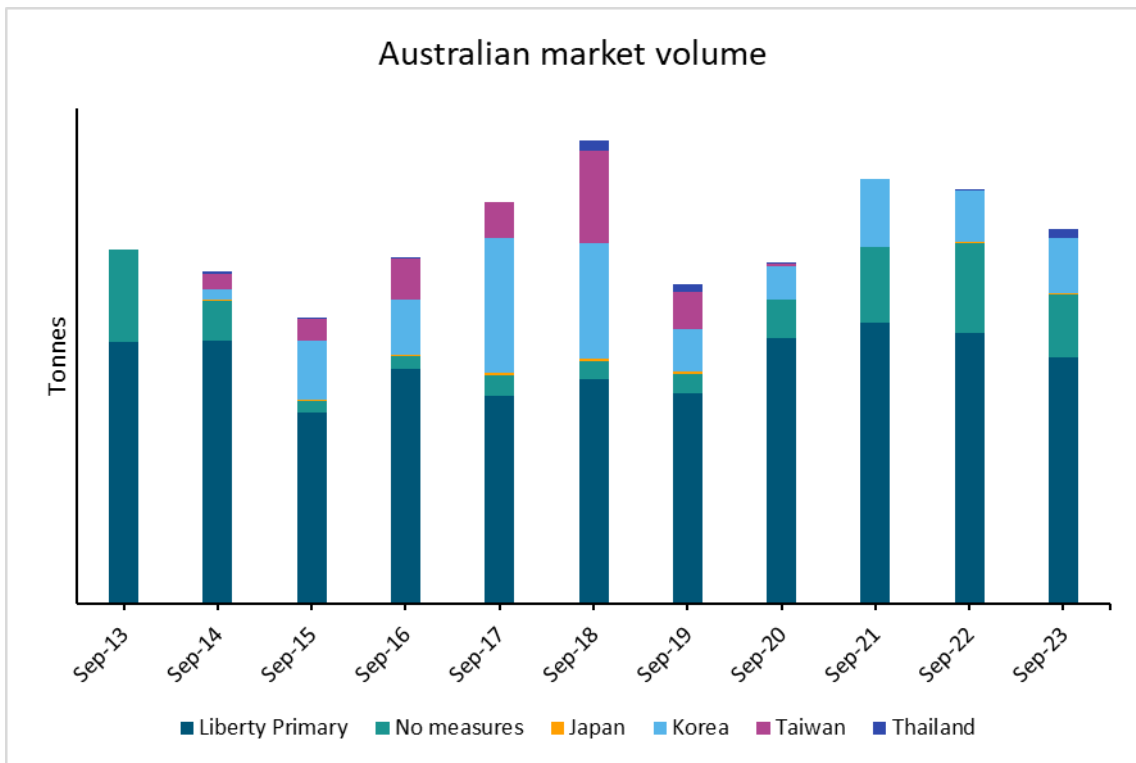


Figure 2: Volume of the Australian market

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Finding

The commission considers that Liberty Primary remains susceptible to material injury caused by dumped exports of the goods.

The commission finds that Liberty Primary's economic condition was improving in relation to price and profits since year ending September 2019. This was partially due to favourable trading conditions in September 2022 because of the COVID-19 pandemic. However, Liberty Primary has experienced a recent decline in its economic condition within the inquiry period.

5.2 Approach to analysis

This chapter considers the economic condition of the Australian industry since the original investigation. This examination provides the basis for the commission's analysis in chapter 6.3.4 of whether material injury is likely to continue or recur.

The commission has assessed the economic condition of Liberty Primary from September 2013, using the verified information provided by Liberty Primary in this inquiry and CON 505, and data from the ABF import database.

The commission's analysis is contained in **Confidential Attachment 2**.

5.3 Findings in the original investigation

REP 223 found that the Australian industry had experienced injury in the form of:

- price depression
- price suppression
- reduced profits and profitability
- reduced revenues.

In REP 223, the commission did not accept that price pressures arising from price undercutting and the IPP process will necessarily result in a loss of sales volume. The commission stated there may be a range of market-based factors other than price which result in market share being maintained. In section 9.9.5 of REP 223, the commission highlighted exclusivity arrangements as a factor which limited Liberty Primary's ability to increase its volume. The commission did not receive any submissions or information to confirm that exclusivity arrangements are still in place. They have not been considered as part of the commission's analysis.

In addition, the commission had insufficient information to conclude that Liberty Primary's reduced capacity utilisation and reduced employment were part of the material injury caused by dumping.

The commission also considered that it was inconclusive whether the other injury factors claimed by Liberty Primary were caused by dumping or caused by other factors. This was because the commission did not have sufficient information at that time.

5.4 Volume effects

5.4.1 Sales volume

Figure 3 depicts Liberty Primary's sales of like goods since year ending September 2013. Following the continuation of measures in November 2019, Liberty Primary's sales volumes peaked in year ending September 2021. However, Liberty Primary's sales volumes have now begun to decline.

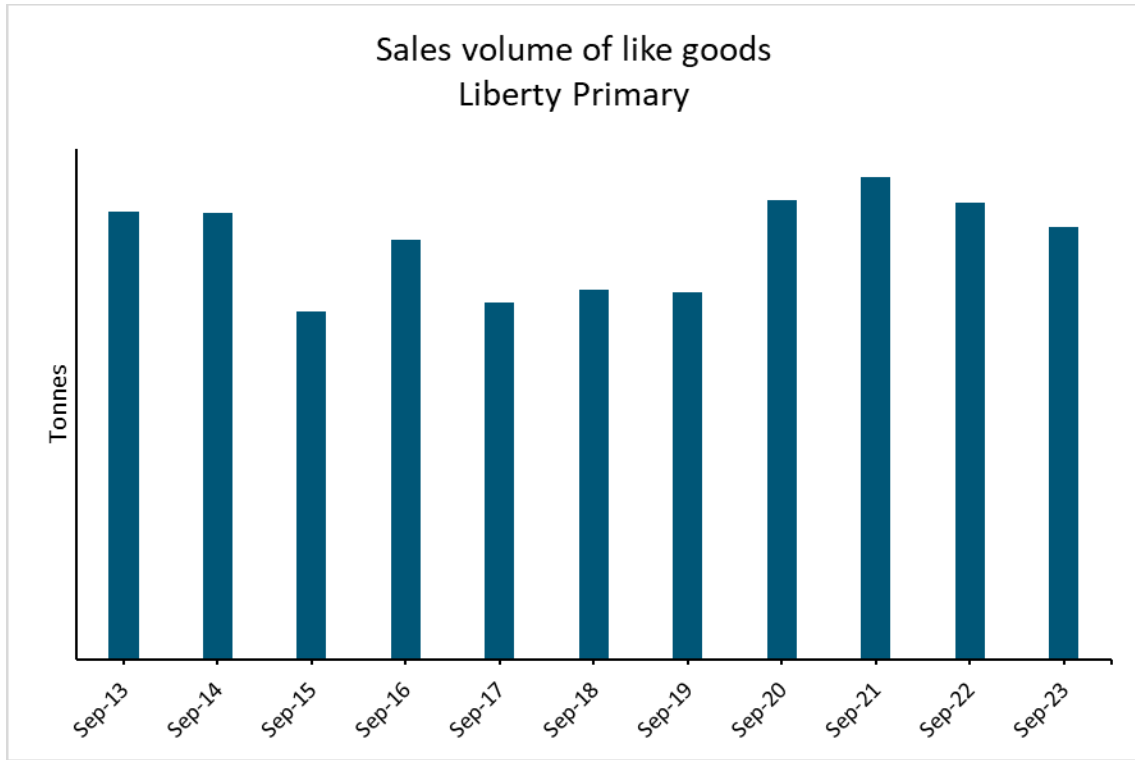


Figure 3: Liberty Primary's sales volume of like goods

5.4.2 Market share

Figure 4 depicts Australian market shares:

- Liberty Primary’s market share has remained relatively stable since CON 505 (November 2019).
- ROK’s market share has also remained stable.
- Market share from Japan and Taiwan (subject to measures) has significantly decreased since CON 505.
- A minor market share for Thailand reappeared in 2023.
- Market share from countries and exporters not subject to the measures has increased since CON 505. This coincides with TS Steel and Tung Ho being made exempt from the measures.

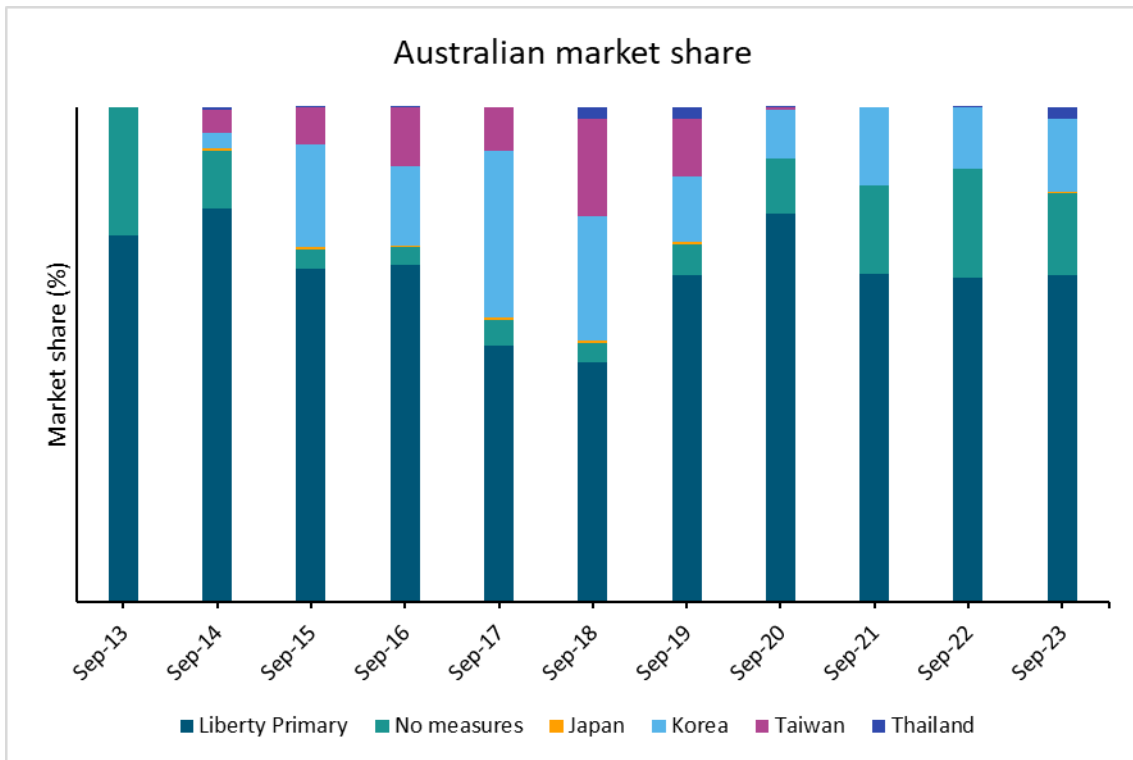


Figure 4: Australian market share

5.5 Price effects

5.5.1 Price depression and suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise might have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

5.5.2 Commission’s findings

Figure 5 depicts Liberty Primary’s unit revenue and CTMS for like goods since year ending September 2013:

- Liberty Primary’s unit revenue remained relatively stable between Sep-13 and Sep-18, before slowly increasing from Sep-19.
- During this time Liberty Primary’s unit CTMS increased at a greater rate, and it was not until Sep-21 that Liberty Primary was able to close the gap.
- Liberty Primary’s unit revenue exceeded unit costs in Sep-22. These price gains coincided with favourable trading conditions following the COVID-19 pandemic.
- As those favourable conditions eased, Liberty Primary experienced a decrease in unit revenue and an increase in unit costs.

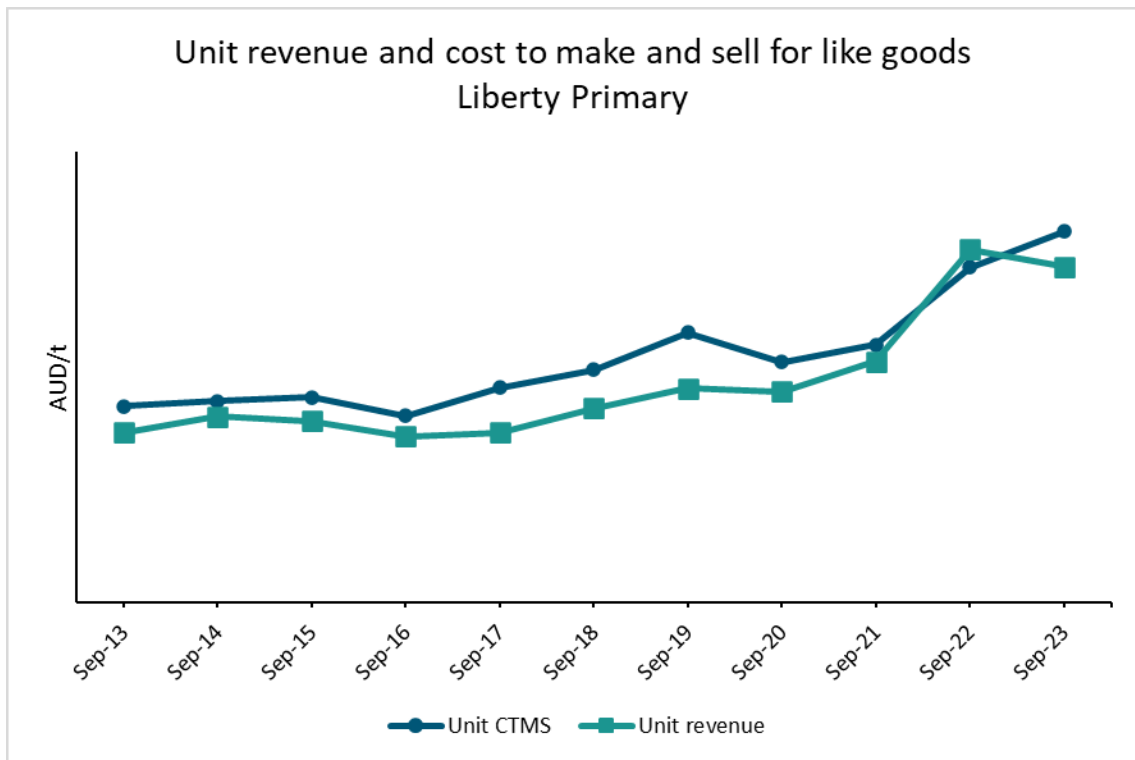


Figure 5: Liberty Primary’s unit revenue and CTMS of like goods

5.6 Profits and profitability

Figure 6 depicts Liberty Primary's net profit and profitability for like goods since September 2013. Liberty Primary experienced a recovery in its net profit and profitability from Sep-20 to Sep-22, before declining again in Sep-23.

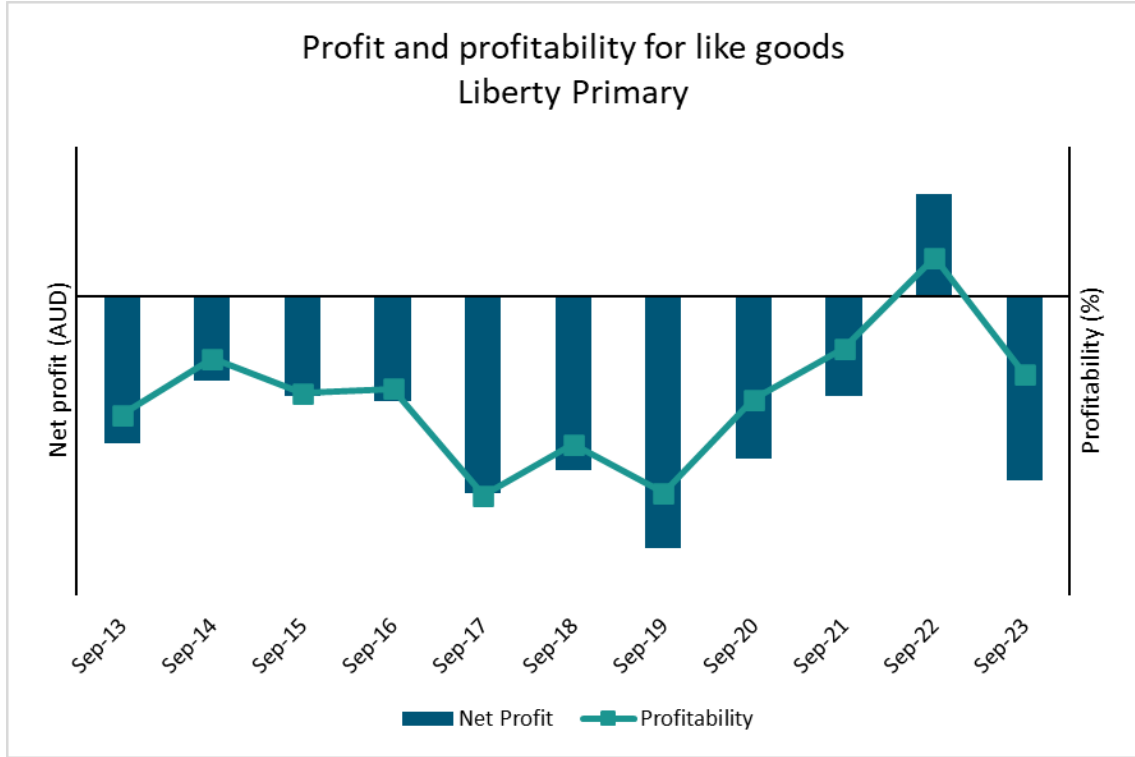


Figure 6: Liberty Primary's profit and profitability for like goods

5.7 Other economic factors

5.7.1 Assets

Figure 7 depicts the value of Liberty Primary's assets used in the production of like goods. The value of assets decreased sharply from FY20 to FY21 and has remained relatively stable since.

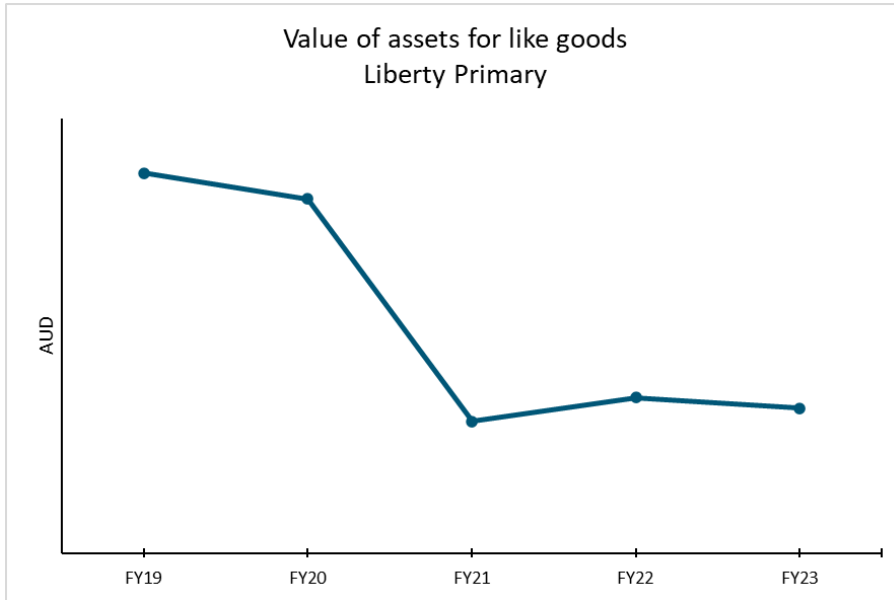


Figure 7: Liberty Primary's value of assets for like goods

5.7.2 Capital investment

Figure 8 depicts Liberty Primary's capital investment relating to like goods. The level of investment decreased sharply from FY19 and has continued to decrease slightly.

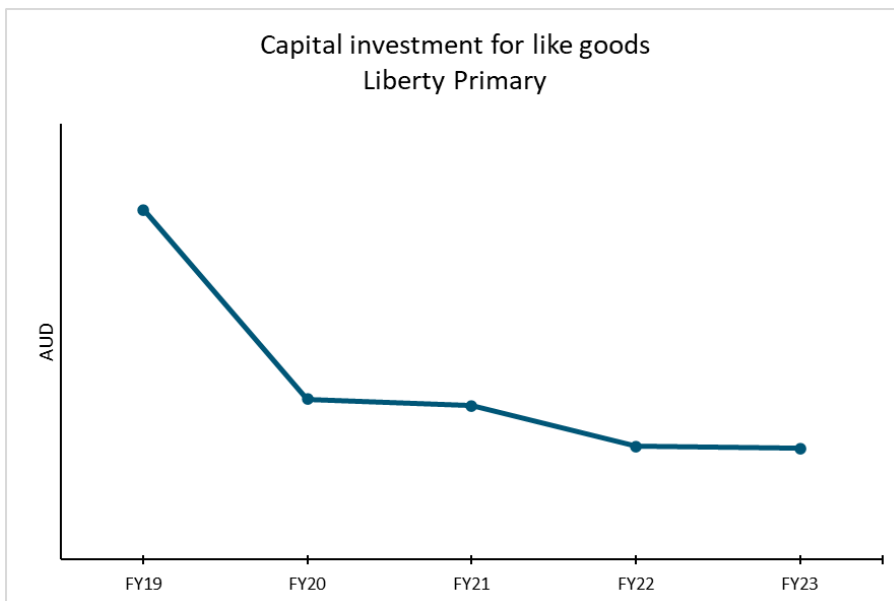


Figure 8: Liberty Primary's capital investment for like goods

5.7.3 Research and development

Figure 9 depicts Liberty Primary’s R&D expenditure. Liberty Primary’s R&D expenditure has increased steadily since FY20.

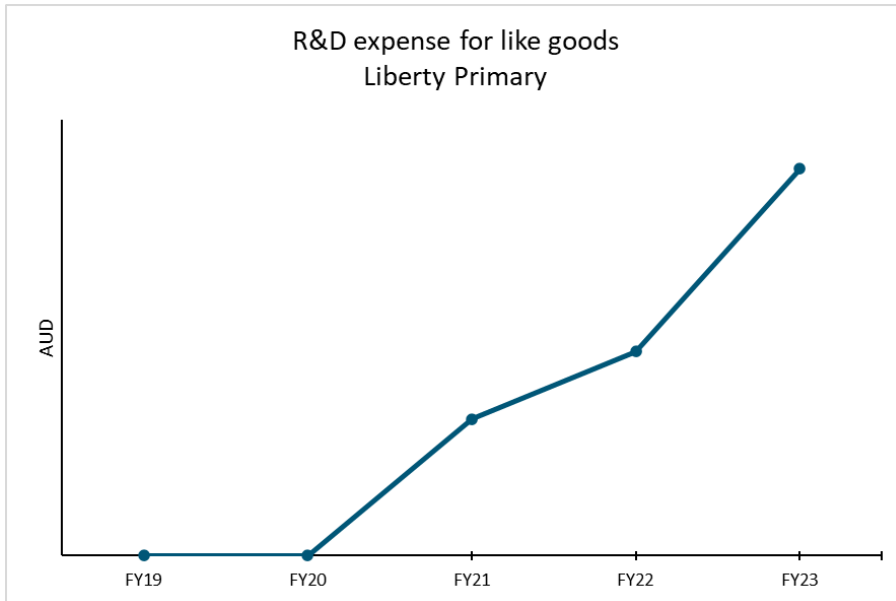


Figure 9: Liberty Primary’s R&D expense for like goods

5.7.4 Revenue

Figure 10 depicts Liberty Primary’s revenue for like goods. Liberty Primary’s revenue has increased since FY19, with a large increase occurring in FY22.

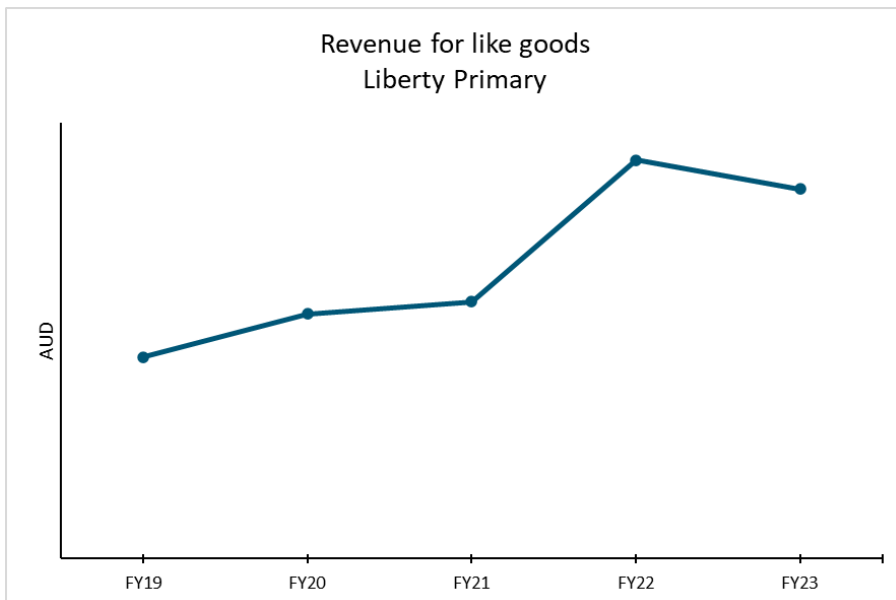


Figure 10: Liberty Primary’s revenue for like goods

5.7.5 Return on investment

Figure 11 depicts Liberty Primary’s ROI for like goods. Liberty Primary’s ROI has been consistently negative, excluding a positive return in FY22. ROI has been expressed as net profit divided by value of assets.

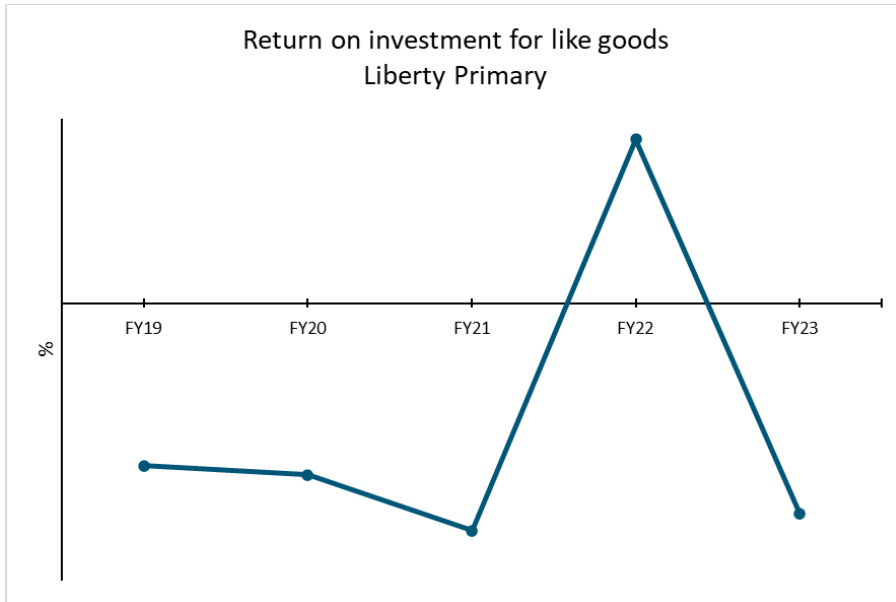


Figure 11: Liberty Primary’s ROI for like goods

5.7.6 Capacity utilisation

Figure 12 depicts Liberty Primary’s capacity utilisation as it relates to like goods. Liberty Primary’s capacity utilisation has remained steady since FY20, following an increase from FY19.

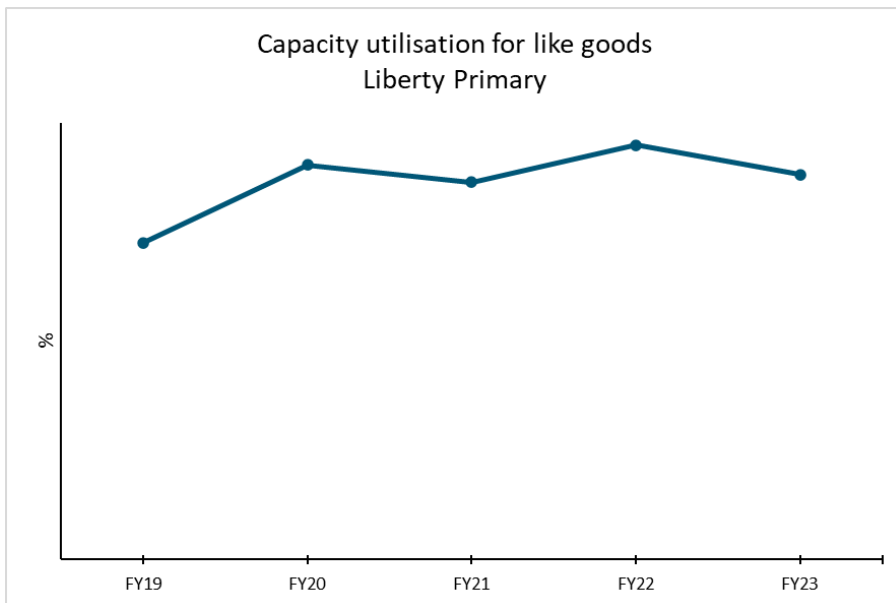


Figure 12: Liberty Primary’s capacity utilisation for like goods

5.7.7 Employment

Figure 13 shows that the number of employees involved in the production of like goods has remained steady over the analysis period.

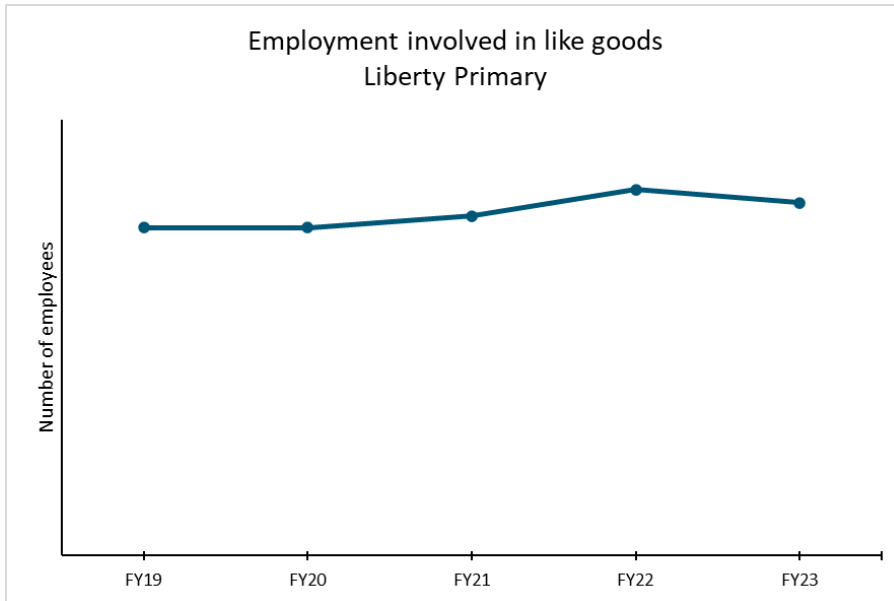


Figure 13: Liberty Primary’s employment involved in like goods

5.7.8 Productivity

Figure 14 depicts Liberty Primary’s productivity for like goods. Productivity increased from FY19 to FY22, before decreasing in FY23. However, productivity has increased overall from FY19 to FY23.

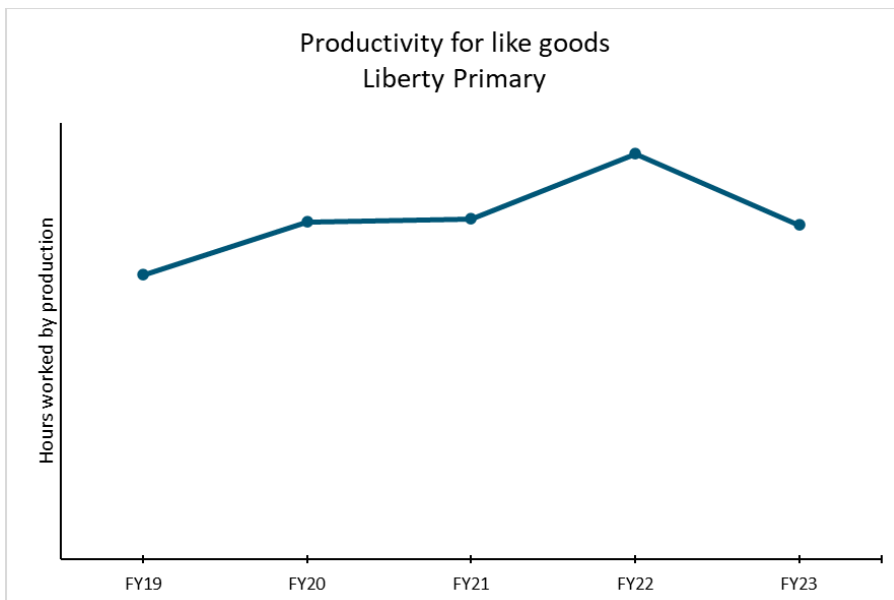


Figure 14: Liberty Primary’s productivity for like goods

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5.7.9 Average wages

Figure 15 depicts the average wages per employee for Liberty Primary. The average wages have increased year on year from FY19 to FY20.

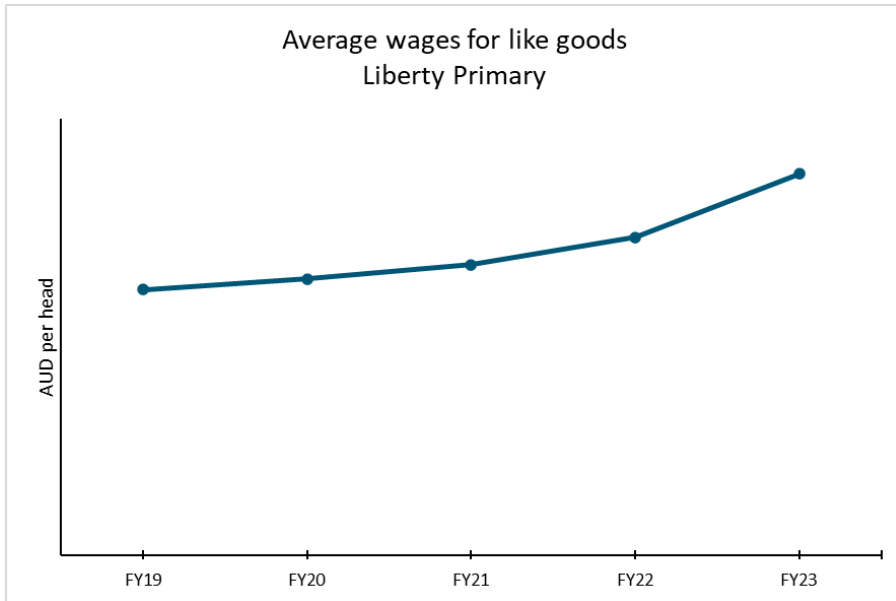


Figure 15: Liberty Primary's average wages for like goods

6 ASSESSMENT OF DUMPING DURING THE INQUIRY PERIOD

6.1 Finding

To assess whether dumping is likely to continue or recur, the commission has examined whether exports in the inquiry period were dumped. The commission has determined the dumping margins as summarised in Table 10.

Country	Exporter	Dumping margin
Japan	All exporters	18.6%
ROK	Hyundai Steel	5.2%
Taiwan	Dragon Steel	N/A
Thailand	All exporters	22.5%

Table 10: Summary of dumping margins (inquiry period)

Dragon Steel from Taiwan did not export the goods to Australia during the inquiry period. The commission has only determined the normal value for Dragon Steel.

6.2 Legislative framework

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value.

6.3 Assessment of level of dumping

For the purposes of the Commissioner's recommendation pursuant to section 269ZHF(2), the commission has assessed the level of dumping from the subject countries during the inquiry period. The following sections outline the assessment for:

- Hyundai Steel (ROK)
- Dragon Steel (Taiwan)
- exports from Japan
- exports from Thailand.

6.3.1 Hyundai Steel

Hyundai Steel was the only exporter from the ROK during the inquiry period.

The commission completed an on-site verification of the information Hyundai Steel provided in its REQ.⁴³

Export price

The commission considers Hyundai Steel to be the exporter of the goods, as Hyundai Steel is:

- the manufacturer of the goods
- named on the commercial invoice as the supplier
- named as consignor on the bill of lading
- arranges and pays for the inland transport to the port of export
- arranges and pays for the port handling charges at the port of export
- arranges and pays for the ocean freight and marine insurance.

The commission is satisfied that for all Australian export sales during the period, Hyundai Steel was the exporter of the goods.⁴⁴

Hyundai Steel made Australian export sales on free on board (FOB) and delivered duty paid (DDP) terms during the inquiry period.

The commission considers that for the minor volume of Australian export sales on FOB terms, Hyundai Steel's Australian customer is the importer of the goods.

For Hyundai Steel's Australian export sales on DDP terms, the commission has found:

- the Australian customer is named as the buyer on the sales order contract and commercial invoice
- Hyundai Steel is named as the shipper on the bill of lading
- the consignee on the bill of lading is listed as 'to the order of shipper' (as export sales are arranged on letter of credit)
- the Australian customer is named as the notify party on the bill of lading
- the letter of credit is payable on sight of the bill of lading (payable when the goods are exported)
- Hyundai Steel pays for all post-exportation charges (excluding marine insurance where applicable) up to and including Australian customs clearance fees
- Hyundai Steel pays for the IDD.

⁴³ [EPR 637](#), no 14.

⁴⁴ The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

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Based on the above findings, the commission considers that Hyundai Steel was also the beneficial owner of the goods at the time of their arrival in Australia and therefore the importer of the goods.⁴⁵ Although the Australian customer pays for the goods under the letter of credit on sight (at the time of export), it cannot benefit from the goods until they are released from Australian customs which is the responsibility of Hyundai Steel.

In respect of the Australian sales of the goods during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price
- 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
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated, or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales to Australia made by Hyundai Steel during the period were arms length transactions.

For Hyundai Steel's sales at FOB terms, the commission has determined the export price under section 269TAB(1)(a). For these sales, the goods have been exported to Australia by Hyundai Steel and purchased by an unrelated importer in an arms length transaction.

For Hyundai Steel's sales at DDP terms, Hyundai Steel acts as both the exporter and the importer. As sections 269TAB(1)(a) or 269TAB(1)(b) require the goods to have been purchased by the importer from the exporter, the commission cannot determine the export price under these sections.

As sections 269TAB(1)(a) and 269TAB(1)(b) do not apply, the commission has determined Hyundai Steel's export price for DDP sales under section 269TAB(1)(c) – having regard to all the circumstances of the exportation. Specifically, the commission has determined the export price at FOB terms, based on the commercial invoice price less:

- ocean freight
- marine insurance (where applicable)
- Australian Customs brokerage charges
- IDD or final duty payable (where applicable).

⁴⁵ 'Importer' is defined in section 269T(1).

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Treatment of dumping duty

The commission considers that IDD and final duty payable are relevant circumstances of exportation under section 269TAB(1)(c).

IDD and final duty payable are relevant deductions under section 269TAB(2)(a).⁴⁶ Section 269TAB(2) relates to deductions made to an export price determined under section 269TAB(1)(b). However, it is still a relevant consideration for an export price determined under section 269TAB(1)(c) where a deductive approach is taken, as in this case.

The commission will typically deduct IDD in circumstances where no duty assessment has been finalised. If a duty assessment has been finalised within the period examined, the commission will instead deduct the final duty payable.

In its submission of 13 August 2024 (and reiterated in its submission of 30 August 2024), Hyundai Steel submitted that the calculation of its export price should account for the results of duty assessments which fall within the inquiry period.⁴⁷ Hyundai Steel submitted that:

- a continuation inquiry requires a determination unaffected by the expiring measure and the payment of interim duty
- an export price determined under section 269TAB(1)(c) should account for likely duty refunds
- there is a 'double counting' effect when deducting IDD which should be avoided.

The commission considers that IDD and final duty payable form relevant circumstances of exportation in determining an export price under section 269TAB(1)(c) for Hyundai Steel. Accordingly, such duties form part of the commission's assessment of whether dumping is likely to continue. In addition, the commission's assessment of whether dumping will continue is based on multiple factors, not just the dumping margin determined during the inquiry period. These factors are outlined in section 7.6. Liberty Primary also highlighted this in its submission of 26 August 2024.⁴⁸

As IDD and final duty payable are relevant circumstances of exportation for Hyundai Steel, the commission will consider how the inquiry period interacts with duty assessments where applicable. In this circumstance there are 3 duty assessment which overlap the inquiry period.

Only one of these duty assessments has been finalised before the publication of this report. The commission has had regard to the final duty payable from this duty assessment in determining Hyundai Steel's export price.

⁴⁶ [ADRP Report No. 129](#), p 62.

⁴⁷ [EPR 637](#), nos 18 & 23.

⁴⁸ [EPR 637](#), no 22, pp 4-5.

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For the 2 other duty assessments which are yet to be completed (and no preliminary decisions have been made),⁴⁹ the commission has regard to the IDD paid in determining Hyundai Steel's export price. It would be premature for the commission to account for what Hyundai Steel described in its submissions as 'likely duty refunds' at this time.

In its submission of 26 August 2024, Liberty Primary raised concerns with Hyundai Steel's submission that the verification of Hyundai Steel's information as part of this inquiry would be used as part of Hyundai Steel's ongoing duty assessments.⁵⁰ The commission accepts that interested parties other than the applicant have limited visibility of decisions made in duty assessments. However, this does not prevent the inquiry and duty assessments from being completed using the same verified information. In this circumstance, the commission has used the verification of Hyundai Steel's REQ in this inquiry for the purposes of the duty assessment which covers the same period. This is permitted under section 269X(5), which provides that the Commissioner may consider any other relevant information as part of a duty assessment.

Regarding the effect of 'double counting' submitted by Hyundai Steel, the commission refers to the ADRP's comments in *ADRP Report No. 120*.⁵¹ These comments were referenced by Hyundai Steel in its submissions of 13 August 2024 and 30 August 2024.⁵² In particular, Hyundai Steel highlighted the phrase 'No double counting should occur if all the steps are undertaken in the process.' This process referred to by the ADRP includes duty assessments, which Hyundai Steel has been and continues to utilise. The commission considers that this indicates that all the steps are being undertaken in the process. This was also referenced by Liberty Primary in its submission of 26 August 2024.⁵³ Accordingly, there is no risk of a 'double count' of duty. Hyundai Steel may also apply for future duty assessments to determine the final duty payable.

Hyundai Steel also refers to what it considers is 'the actual level of export price' in the absence of measures. The commission is required to calculate the export price according to the legislation. Where IDD is paid as part of the price arising after exportation (for sales that include duty), it is a relevant deduction to arrive at the export price.

⁴⁹ These duty assessments have a preliminary due date of 19 October 2024 and 8 November 2024 (unless extended). This is after the date that this report is due to be provided to the Minister.

⁵⁰ [EPR 637](#), no 22, pp 3-4.

⁵¹ [ADRP Report No. 120](#), pp 39-40, paras [110]-[111].

⁵² [EPR 627](#), no 18, pp 5-6 and no 23, p 3.

⁵³ [EPR 637](#), no 22, p 4.

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The deduction of IDD is supported by the ADRP's comments in *ADRP Report No. 120*, in particular:⁵⁴

I also considered the outcome of the alternate scenario presented by Hyundai regarding if determining the export price pursuant to s.269TAB(1)(c) of the Act would preclude the deduction of the IDD. As discussed above, the amount of the export price would more likely than not be identical regardless of whether determined pursuant to s.269TAB(1)(a) or TAB(1)(c) as *the IDD would still be deducted to establish an export price at the FOB level.* [emphasis added]

The commission notes that this view is supported by Liberty Primary in its submission of 26 August 2024.⁵⁵

The commission's calculation of Hyundai Steel's export price is at **Confidential Attachment 5**.

Date of sale

Hyundai Steel has claimed that the sales order date should be taken as the date of sale because it best reflects the time at which the material terms of the contract (being the contract terms relating to the price and quantity of the sale) are established.

The date of sale, for the purpose of calculating the export price under section 269TAB(1), is the date a sales transaction best establishes the material terms of the sale of the exported goods.

The Manual states that the commission will normally establish the date of sale using invoice date. The commission considers that the invoice date generally best reflects the material terms of the sale and approximates the shipment date for the goods exported. However, where a claim is made that a date other than the date of invoice better reflects the date of sale, the commission will examine the evidence provided.⁵⁶

In *Anti-Dumping Commission Report 499*, the commission found that Hyundai Steel's sales order date best reflected the material terms of the sale. Based on the commission's analysis at the time, it determined that there was no variance in price and no evidence of continuing negotiation between the sales order date and commercial invoice date.

The commission has examined the evidence before it as part of this inquiry, including:

- sales orders
- commercial invoices
- post-exportation invoices, including ocean freight and marine insurance
- how sales are recorded in the accounting system.

⁵⁴ [ADRP Report No. 120](#), pp 41-42, paras [116]-[121].

⁵⁵ [EPR 637](#), no 22, pp 3-4.

⁵⁶ [The Manual](#), pp 51-52.

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In determining what date best reflects the time material terms of the sale of the exported goods, the commission has found the following:

- The unit invoice value on the commercial invoice did not match the unit invoice value on the sales order for most of the selected invoices.
- The net invoice value on the commercial invoice matches the revenue recorded in Hyundai Steel's accounting system.
- The sales order contract indicated that certain terms could be changed before the invoice date.
- Certain post-exportation costs changed between the sales order date and the commercial invoice date.

Based on these findings, the commission considers the date of sale to be the commercial invoice date as this best reflects the material terms of sale relevant for the calculation of the export price.

Normal value

Normal values were established in accordance with section 269TAC(1) using Hyundai Steel's domestic sales for like goods sold in the OCOT in arms length transactions.

Table 11 provides a summary of the adjustments that, in accordance with section 269TAC(8), are necessary to ensure a fair comparison of normal values with export prices.

Adjustment Type	Deduction/addition
Domestic credit expenses	Deduction
Domestic inland transport	Deduction
Export inland transport	Addition
Export handling & other costs	Addition

Table 11: Hyundai Steel adjustments to normal value

The commission's calculation of Hyundai Steel's normal value is at **Confidential Attachment 7**.

Dumping margin

As a result of the revisions to Hyundai Steel's export price, the dumping margin for the goods exported to Australia by Hyundai Steel for the inquiry period is **5.2%**.

The commission's calculation of Hyundai Steel's dumping margin is at **Confidential Attachment 8**.

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Submissions regarding Hyundai Steel's variable factors

In its submission of 1 March 2024, Liberty Primary raised concerns with Hyundai Steel's date of sale claims and how the date of sale may be treated as part of the dumping margin calculations.⁵⁷

The commission has concluded that the appropriate date of sale for Hyundai Steel's export sales is the invoice date. Accordingly, the commission has followed its usual process for determining the export price and dumping margin, by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

In its submission of 15 August 2024, Liberty Primary submitted that it was not clear in the SEF whether Hyundai Steel had made domestic sales of grade AS/NZS 3679.1.⁵⁸ The commission can confirm that Hyundai Steel did not make any domestic sales of grade AS/NZS 3679.1 during the inquiry period. The commission also notes that even if such sales were made domestically, they would be treated accordingly under the commission's MCC structure.

In its submissions of 1 March 2024 and 15 August 2024, Liberty Primary submitted concerns regarding how grades were matched to the MCC categories for yield and tensile strength.⁵⁹

In its submission of 1 March 2024, Liberty Primary submitted that any error in the allocation of grades to the MCC categories for strength would affect the accuracy of the dumping margin. Liberty Primary also requested that the commission publish the allocation of grades to the MCC categories.⁶⁰

In its submission of 15 August 2024, Liberty Primary submitted that it was not clear how the commission had verified the grades to the MCC categories. It again requested that the commission publish the allocation of grades to the MCC categories.⁶¹

The commission considers that there is sufficient information on the public record and available through publicly available sources to provide confidence that the MCC categories have been correctly allocated and verified.

The verification report contains a step-by-step explanation of how the commission verified that each grade was matched to the correct MCC.⁶²

⁵⁷ [EPR 637](#), no 7, pp 2-5.

⁵⁸ [EPR 637](#), no 19, p 4.

⁵⁹ [EPR 637](#), no 7 and 19, respectively.

⁶⁰ [EPR 637](#), no 7, pp 1-2.

⁶¹ [EPR 637](#), no 19, pp 4-6.

⁶² [EPR 637](#), no 14, p 5.

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Further, the publicly available product brochure from Hyundai Steel provides the associated mechanical properties for each standard that Hyundai Steel produces. This brochure is provided at **Non-Confidential Attachment 1**. From this brochure, interested parties can determine which MCC categories match to which grade.

For example, standard KS D 3505, grade SS275 has a yield strength ranging from 245-275 N/mm² (or MPa) and a tensile strength ranging from 410-550 N/mm².⁶³ This corresponds to either an MCC of either A-B, B-B, A-C or B-C. The documentation provided by Hyundai Steel specifically outlined which products were produced to which grade. This enabled the commission to confirm that the correct MCCs were applied in cases where a grade covered multiple MCCs. To demonstrate, Hyundai Steel was able to distinguish between products which were manufactured to a yield strength of 245 N/mm² (yield strength MCC A) under grade SS275 and those which were manufactured to a yield strength of 275 N/mm² (yield strength MCC B) under grade SS275. This provided the commission with confidence that the MCC categories were correctly allocated for grade.

6.3.2 Dragon Steel

Dragon Steel did not export the goods to Australia during the inquiry period. During the inquiry period there were no exports from Taiwan subject to measures.

Dragon Steel provided a completed REQ to the commission.⁶⁴ The commission assessed Dragon Steel's REQ and did not find any deficiencies. Although the commission did not conduct a verification of Dragon Steel's REQ, it considers that the information is sufficient to determine Dragon Steel's normal value. This is because Dragon Steel provided relevant information, including:

- a domestic sales listing including related and unrelated parties
- CTMS for the like goods sold domestically
- information (including the relevant standards) that would allow the commission to apply the model matching criteria.

Export price

As Dragon Steel did not export the goods to Australia during the inquiry period, the commission has not assessed Dragon Steel's export price. The commission considers that the information before it is not sufficient to determine an export price for Dragon Steel. The commission considered the following factors:

- All exports of the goods from Taiwan during the period were exempt from the measures. This means that an export price estimated using ABF import data may not reflect actual trading conditions for exporters subject to the measures.
- The commission did not have sufficient information to determine appropriate third country export sales.

⁶³ **Non-Confidential Attachment 1**, p 132.

⁶⁴ [EPR 637](#), no 5.

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Normal value

Dragon Steel provided information in its REQ that enabled the commission to calculate a normal value.

Dragon Steel sold 32 models in its domestic market during the inquiry period. Dragon Steel's catalogue provides information on HRSS that it produces to Australian/New Zealand Standard 3679.1.⁶⁵ Based on that information, the commission considers that the following models would be comparable if Dragon Steel were to export to Australia:

- P-H-B-B-1-L-Y
- P-H-B-B-1-S-Y
- P-H-B-B-2-L-Y
- P-H-B-B-2-S-Y
- P-H-B-B-3-L-Y

These are models with a:

- minimum yield strength greater than or equal to 265 MPa
- tensile strength greater than or equal to 400 MPa and less than 450 MPa
- carbon equivalent value specified in relevant standard.

Dragon Steel made domestic sales to related and unrelated customers during the inquiry period. The commission compared domestic selling prices to related and unrelated customers to assess whether Dragon Steel's sales to its related customers were arms length. The commission found that on average and for each MCC, Dragon Steel's price to its related domestic customers were higher. Accordingly, the commission was satisfied that Dragon Steel's sales to its domestic related customers were arms length.

The commission is satisfied that there were sufficient volumes of sales of the above models:

- sold for home consumption in the country of export
- sold in arms length transactions
- at prices that were within the OCOT.

As these conditions are satisfied, the commission has determined the normal value for Dragon Steel under section 269TAC(1).

Table 12 provides a summary of the adjustments that, in accordance with section 269TAC(8), are necessary to ensure a fair comparison of normal values with export prices. The commission did not have sufficient data to calculate an export credit adjustment.

⁶⁵ Dragon Steel Corporation, [DSC Catalogue – Specification](#), Dragon Steel Corporation website, n.d., accessed 17 May 2024.

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Adjustment Type	Deduction/addition	Basis
Domestic credit expenses	Deduction	Actual cost incurred
Domestic packaging expense	Deduction	Actual cost incurred
Domestic inland transport	Deduction	Actual cost incurred
Export costs from EXW to FOB	Addition	Weighted average difference in EXW and FOB export sales to third countries
Export packaging expense	Addition	Export packaging expense

Table 12: Dragon Steel adjustments to normal value

The commission's calculation of Dragon Steel's normal value is at **Confidential Attachment 10**.

Dumping margin

As the commission could not determine an export price for Dragon Steel during the inquiry period, the commission has not calculated a dumping margin.

The commission has further assessed the likelihood of a recurrence of dumped exports from Dragon Steel (and Taiwan) in sections 7.5 and 7.6.

6.3.3 Exports from Japan

The commission did not receive any completed REQs from exporters from Japan. The commission has therefore used the best available information to estimate the dumping margin for exports of the goods from Japan in the inquiry period.

Export price

The commission considers that ABF import data is the most reliable and relevant information available in relation to exports of the goods from Japan over the inquiry period. Therefore, the commission has used ABF import data to ascertain the weighted average FOB value for imports from Japan over the inquiry period.

The commission notes that this was the same approach taken for the export price for Japan in REV 499.

Normal value

The commission used the verified normal value information from the original investigation when it last determined a normal value for Japan in REV 499. The commission adjusted the normal value from the original investigation for the movement in export prices between the original investigation and REV 499. As the normal value in the original investigation is now approximately 10 years out of date, the commission does not consider it is appropriate to use as the basis for a normal value in this inquiry.

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Instead, the commission has used confidential steel pricing data relating to domestic prices for HRSS in Japan over the inquiry period. This commission considers that this is the most relevant information as it:

- relates to HRSS (medium sections and beams)
- is based on domestic selling prices in Japan
- covers the entire inquiry period
- is sourced from a reputable provider of steel market information.

Dumping margin

The commission has calculated an estimate of dumping by deducting the export price from the normal value.

The commission has estimated a dumping margin for exports from Japan of **18.6%**.

The commission's assessment of dumping from Japan is at **Confidential Attachment 3**.

6.3.4 Exports from Thailand

In REV 499, the commission received a completed REQ from SYS. The commission conducted a verification visit to SYS and verified the data from its REQ.

The commission did not receive any completed REQs from exporters from Thailand. The commission has therefore used the best available information to estimate the dumping margin for exports of the goods from Thailand in the inquiry period.

Export price

In REV 499, the commission was able to use verified information from SYS to determine the export price from Thailand. SYS did not provide an REQ in this inquiry.

The commission considers that ABF import data is the most reliable and relevant information available in relation to exports of the goods from Thailand over the inquiry period. Therefore, the commission has used ABF import data to ascertain the weighted average FOB value for imports from Thailand over the inquiry period.

Normal value

In REV 499, the commission was able to use verified information from SYS to determine the normal value in Thailand. SYS did not provide an REQ in this inquiry.

Unlike for Japan, the commission does not have steel pricing data relating to domestic prices for HRSS in Thailand over the inquiry period.

The commission has instead used information provided by Liberty Primary in its application to estimate the normal value for exports from Thailand. Information was provided up to the Mar-23 quarter. This information relates to publicly available domestic pricing for HRSS in Thailand, sourced from domestic producer's websites. The commission considers that this is the best available information relating to the normal value for Thailand.

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Where this information was not available (after the Mar-23 quarter), the commission has adjusted the historical prices by movements in steel scrap prices. The commission considers that the movements in steel scrap prices is an appropriate measure. As steel scrap is a major raw material input for HRSS, any movements in the scrap price would be reflected in domestic prices for HRSS.

Dumping margin

The commission has calculated an estimate of dumping by deducting the export price from the normal value.

The commission has estimated a dumping margin for exports from Thailand of **22.5%**.

The commission's assessment of dumping from Thailand is at **Confidential Attachment 3**.

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Finding

Based on the evidence obtained during this inquiry, the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

After considering the commission's analysis and findings, the Commissioner is satisfied that the following would be likely to occur if the measures expire.

Exports of the goods from the subject countries will continue because:

- exporters from the subject countries have changed behaviour in response to changes in the level of measures
- exporters from the subject countries have maintained, or are able to readily establish, distribution links in the Australian market
- exporters from the subject countries have excess production capacity that could be directed towards Australia
- excess production capacity in China is influencing market conditions in the subject countries, placing pressure on exporters to seek out export markets, including Australia
- trade measures in the United States of America (USA) and European Union (EU) make Australia a more attractive export market for exporters from the subject countries
- exporters from ROK, Taiwan and Thailand maintain ACRS certification.

Those exports will be dumped or are likely to be dumped because:

- the commission estimates that the goods exported from Japan and Thailand during the period were dumped
- the commission has calculated that exports from the ROK have been dumped during the period
- if exports from Taiwan not subject to measures were to resume, they would likely be at dumped prices to compete with exports from Taiwan that are not subject to measures
- the goods exported from all subject countries were dumped in the original investigation, and the period examined in REV 499
- the price sensitive nature of the Australian HRSS market promotes a high level of competition between exports from the subject countries.

PUBLIC RECORD

The expiry of the measures would be likely to lead to a continuation of or a recurrence of material injury to Liberty Primary because:

- exporters from the subject countries have demonstrated changes in exporting behaviour in response to the measures
- exports from the subject countries have undercut Liberty Primary's selling prices
- Liberty Primary has considerable regard to import prices through its IPP model
- exporters from the subject countries had significant excess production capacity during the inquiry period
- the expiry of measures would provide exporters from the subject countries with a price advantage in a price sensitive market
- a reduction in import prices as exporters seek to compete in a market absent of measures and the associated increase in import volumes would likely lead to a continuation or recurrence of the material injury experienced by Liberty Primary.

7.2 Framework

Under section 269ZHF(2) the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless they are satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The commission must consider what will happen (or what would be likely to happen) in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base their conclusions and recommendations on facts.⁶⁶

7.3 The commission's approach

The commission considered several relevant factors to assess the likelihood that dumping and material injury will continue or recur, as outlined in the Manual.⁶⁷ The commission's view is that the relevance of each factor varies depending on the nature of the goods and the market into which the goods are sold. In this instance, no one factor can provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

ROK

The commission has had regard to Hyundai Steel's verified information and other relevant data as set out in this chapter when assessing whether dumping and material injury is likely to continue or recur in relation to the ROK.

⁶⁶ [ADRP Report No. 44](#).

⁶⁷ [The Manual](#), pp 137-138.

PUBLIC RECORD

The commission received a completed REQ from Hyundai Steel from the ROK. The commission is not aware of any other exporters of the goods from the ROK that exported to Australia during the inquiry period.

Taiwan

The commission has used Dragon Steel as a basis for the assessment of whether dumping and material injury will recur from Taiwan.

There were no exports of the goods from Taiwan that were subject to measures during the inquiry period. All exports were from either Feng Hsin, TS Steel or Tung Ho (the exempt exporters). To assess whether dumped exports from Taiwan subject to measures are likely to recur, the commission has examined information relating to Dragon Steel. In the absence of further information from other exporters from Taiwan, the commission considers that Dragon Steel's information is an appropriate basis for the assessment of whether dumping and material injury will recur from Taiwan. This is because:

- Dragon Steel is the only exporter subject to measures which retains ACRS accreditation for hot rolled steel
- Dragon Steel has previously exported the goods to Australia
- The commission is not aware of any other current producers of HRSS from Taiwan that are subject to the measures.

In its submission of 15 August 2024, Dragon Steel submitted that it considered that there were no producers of HRSS in Taiwan other than Dragon Steel, Feng Hsin, TS Steel or Tung Ho.⁶⁸ This supports the commission's finding that there are no other current exporters of the goods from Taiwan that are subject to measures.

The commission considers that it remains appropriate to use Dragon Steel as a basis for the assessment of whether dumping and material injury will recur from Taiwan. The commission has had regard to the information in Dragon Steel's REQ and other relevant data as set out in this chapter when assessing whether dumping and material injury is likely to continue or recur in relation to Taiwan.

Japan and Thailand

The commission has had regard to the best information available, including ABF import data and other relevant data as set out in this chapter when assessing whether dumping and material injury is likely to continue or recur in relation to Japan and Thailand.

The commission did not receive a completed REQ from any exporter from Japan or Thailand.

⁶⁸ [EPR 637](#), no 20, p 1.

7.4 Australian industry claims

In its application, Liberty Primary made the following claims regarding the continuation or recurrence of injury of HRSS exported to Australia from the subject countries:

- Exports have continued following the imposition of measures in 2014 and the continuation of those measures in 2019.
- Exporters have maintained distribution links to the Australian market.
- There is excess production capacity in the subject countries.
- Australia remains an attractive and accessible market for exports from the subject countries given trade barriers against them in other developed markets.
- It is reasonable to conclude that exports were dumped during the period examined in the application (1 July 2022 to 30 June 2023).
- Exports have undercut Liberty Primary's prices during the period examined in the application.
- The Australian HRSS market continues to be price sensitive and Liberty Primary's prices continue to be subject to import price competition.

The commission has considered Liberty Primary's claims in its analysis within this chapter.

7.5 Are exports likely to continue or recur?

The commission considers that, should the measures expire, exports from the subject countries are likely to continue.

This finding is based on the following significant factors:

- Exports subject to measures have continued from Japan, the ROK, and Thailand following the continuation of the measures in 2019.
- Exporters from the subject countries have changed behaviour in response to changes in the form and level of measures.
- Exporters from the subject countries have maintained, or are able to readily establish, distribution links in the Australian market.
- Exporters from the subject countries have excess production capacity that could be directed towards Australia.
- Excess production capacity in China is influencing market conditions in the subject countries, placing pressure on exporters to seek out export markets, including Australia.
- Trade measures in the USA and EU make Australia a more attractive export market for exporters from the subject countries.
- Exporters from ROK, Taiwan, and Thailand maintain ACRS certification.

PUBLIC RECORD

As part of this finding, the commission has assessed the following evidence:

- import volumes
- maintenance of distribution links
- excess production capacity in the subject countries
- excess production capacity in China
- trade measures in other jurisdictions
- ACRS accreditation
- the potential effects of carbon border adjustment mechanisms.

The commission's assessment is outlined in sections 7.5.1 to 7.5.7.

7.5.1 Import volumes

The commission assessed import volumes from all sources from year ending September 2013. The commission's assessment of import volumes is at **Confidential Attachment 4**.

Figure 16 depicts the volume of imports of HRSS since year ending September 2013.

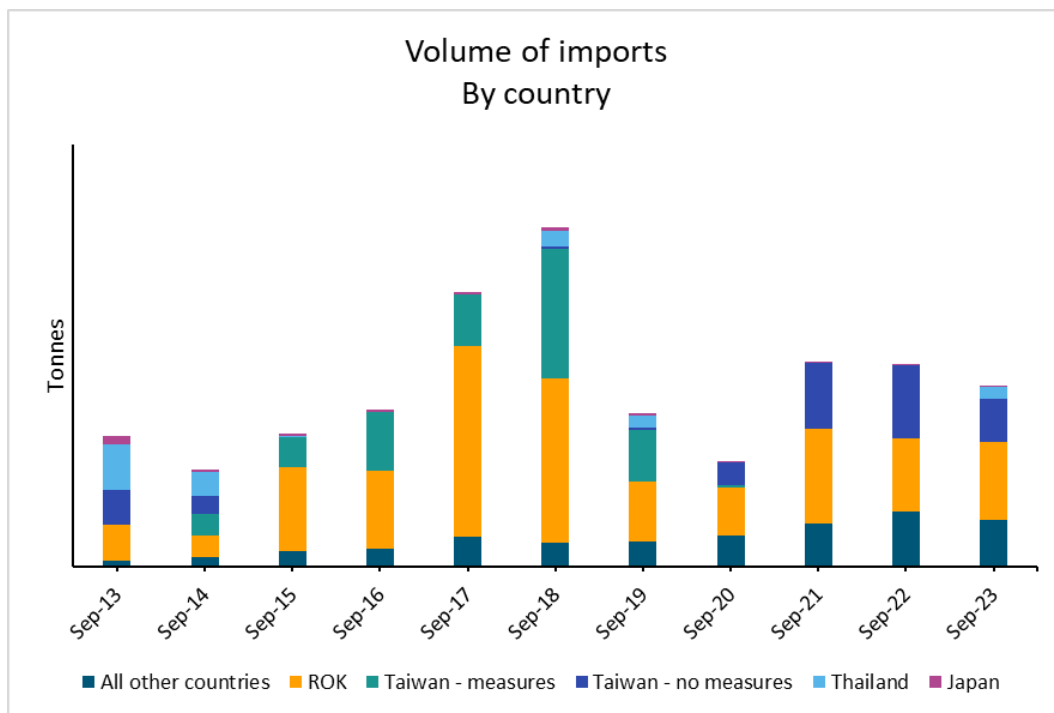


Figure 16: Volume of imports by country

Figure 16 shows:

- import volumes increased to a peak in year ending September 2018, driven by increases from the ROK and Taiwan
- import volumes decreased into year ending September 2020, after the continuation of measures in November 2019
- starting in year ending September 2020, imports from Taiwan were from exporters not subject to measures
- imports from all other countries have increased since year ending September 2013.

ROK

Figure 17 shows the movement in the volume of imports from the ROK since year ending September 2013.

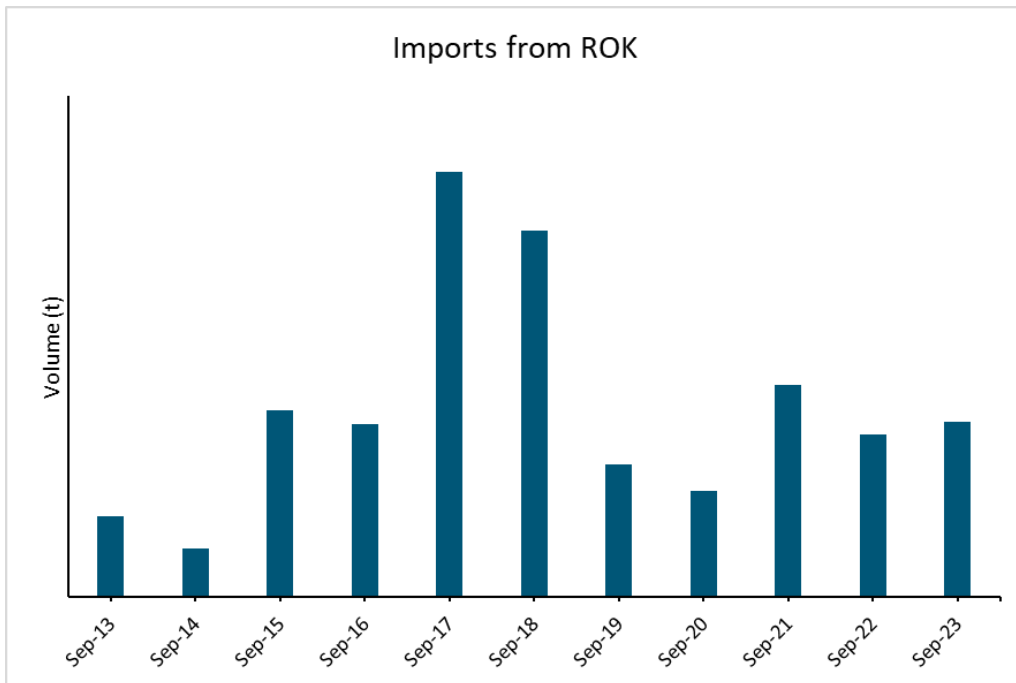


Figure 17: Movement in imports from the ROK

Following the imposition of measures on 20 November 2014, imports from the ROK increased substantially up to year ending September 2018. The measures applying to imports from the ROK prior to 2018 were in the form of the *ad valorem* method (percentage of export price).⁶⁹

Following *Review 465* (REV 465) in December 2018, the level of measures applying to imports from the ROK were increased and changed to the combination method (fixed and variable).⁷⁰ Figure 17 shows a clear decrease in the volume of imports from the ROK following REV 465.

The measures applying to imports from the ROK were again changed following REV 499 in November 2020 and *ADRP Review no 120* in April 2021.⁷¹ The result of these reviews was a decrease in the fixed component of the measures. Imports from the ROK increased following these reviews.

⁶⁹ Refer to [ADN 2014/127](#).

⁷⁰ Refer to [ADN 2018/167](#).

⁷¹ Refer to [ADN 2019/125](#) and Public Notice – Ministers Decision, [ADRP Review No. 120](#).

PUBLIC RECORD

The commission considers that this indicates that the measures have influenced the import volumes, and patterns of trade, from exporters from the ROK. If the measures were to expire, it is likely that exports from the ROK will increase.

Japan

Figure 18 shows the movement in imports from Japan since year ending September 2013.

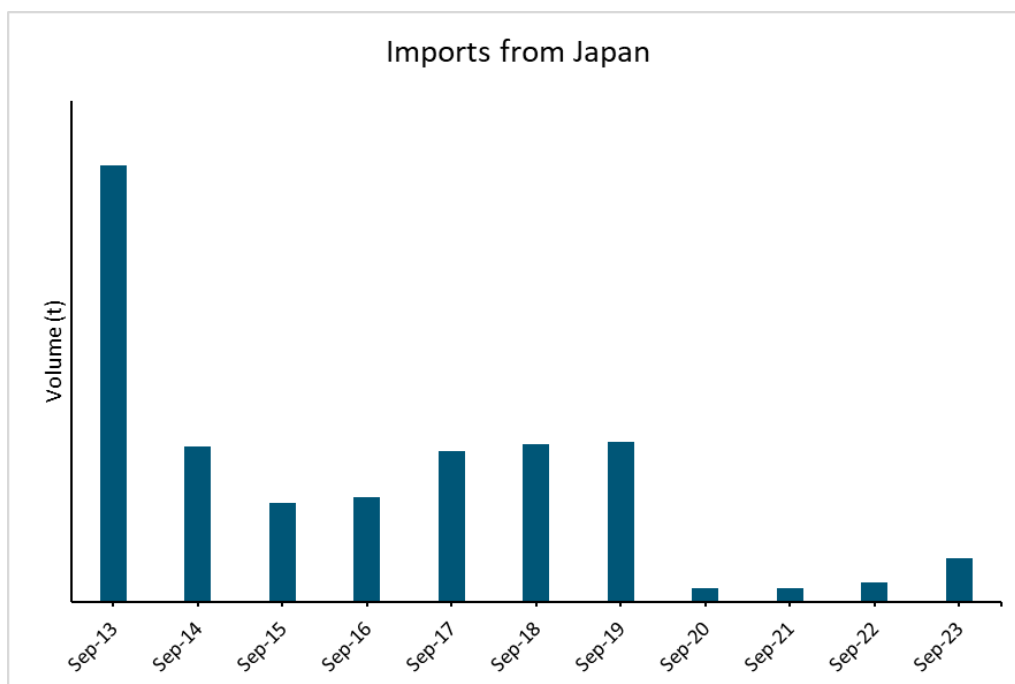


Figure 18: Movement in imports from Japan

Imports from Japan decreased substantially following the imposition of the measures. Imports decreased from year ending September 2014 to year ending September 2015, after which they began to increase slightly. At this time, the measures were in the form of an *ad valorem* method (percentage of export price).⁷²

The measures applying to imports from Japan changed because of REV 499 (from *ad valorem* to the combination method).⁷³ Imports from Japan almost stopped following this change. However, in year ending September 2023, it appears that imports from Japan have begun to increase again.

The commission notes that the fixed amount of duty that applies to imports from Japan is at a similar rate to the previous *ad valorem* rate.⁷⁴ The commission considers that the recent increase in imports from Japan may be reflective of favourable pricing conditions.

⁷² Refer to [ADN 2014/127](#).

⁷³ Refer to [ADN 2019/125](#).

⁷⁴ 12.2% currently, compared to 12.15% following INV 223.

PUBLIC RECORD

The commission considers that this indicates that exporters from Japan have changed behaviour in response to changes in measures. If the measures were to expire, it is likely that exports from Japan will increase.

Taiwan

Figure 19 shows the movement in imports from Taiwan since year ending September 2013.

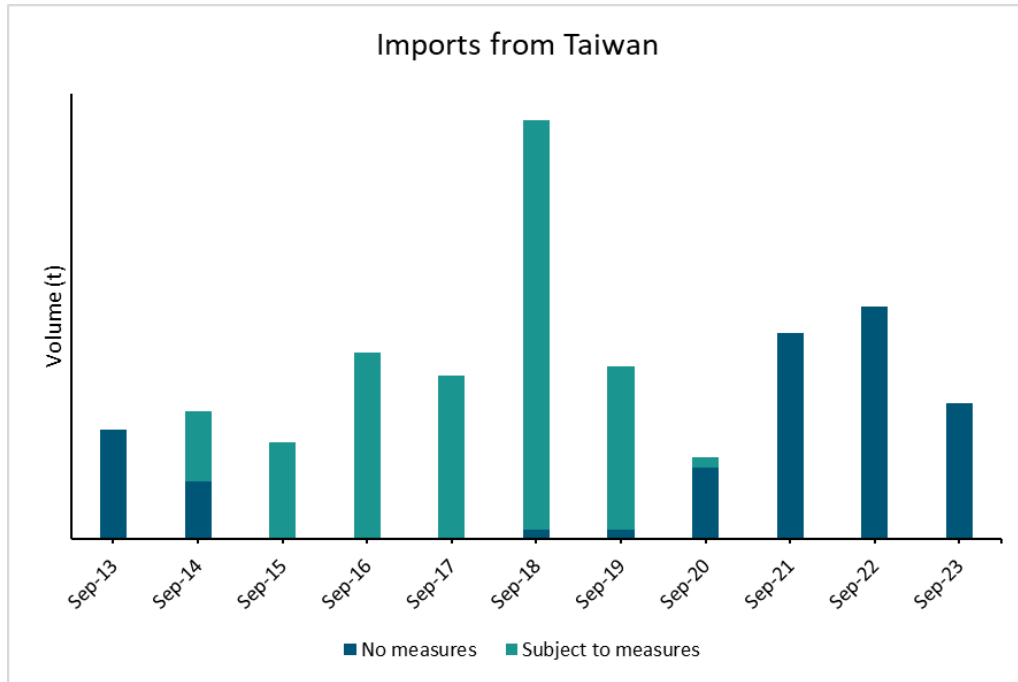


Figure 19: Movement in imports from Taiwan

Following CON 505 and the subsequent *ADRP Review No. 121*, imports from Taiwan by Feng Hsin, TS Steel and Tung Ho were no longer subject to measures.⁷⁵ This resulted in imports from Taiwan subject to measures stopping in 2020, although imports from Taiwan not subject to measures did continue.

As outlined in section 7.3, the commission has examined Dragon Steel's exports to assess whether exports from Taiwan subject to measures are likely to recur.

Dragon Steel received its own form of measures following *Accelerated Review 359* in October 2016 in the form of a floor price. However, Dragon Steel did not export to Australia until 2018. When Dragon Steel commenced exporting to Australia, the volume of imports increased each quarter until the Mar-19 quarter. The commission's analysis indicates that there have been upward movements in prices in the Australian market since *Accelerated Review 359*. Based on this, the commission considers that when Dragon Steel commenced exporting in 2018, it was able to do so above the floor price.

⁷⁵ Refer to Public Notice – Ministers Decision, [ADRP Review No. 120](#). Feng Hsin was not subject to measures because of INV 223.

PUBLIC RECORD

This indicates that Dragon Steel will likely export to Australia when market conditions are favourable.

Imports from Dragon Steel then stopped following the Mar-19 quarter. REV 499 and CON 505 were initiated in the Mar-19 quarter. As a result of REV 499, measures applying to Dragon Steel were changed in November 2020. The measures were changed from a floor price to the combination method. Exports from Dragon Steel did not resume following this change in measures.

The commission considers that the above evidence and analysis indicates that Dragon Steel changed its behaviour in response to the change in measures. Dragon Steel exported to Australia when the measures were in the form of a floor price, which has the potential to 'become out-of-date and in a rising market become ineffective.'⁷⁶ Exports from Dragon steel did not resume following the change of measures to the combination method, which introduced a fixed rate of IDD.

Based on the commission's observations in relation to Dragon Steel, it considers that exporters from Taiwan (excluding the exempt exporters) are likely to export to Australia when trading conditions are favourable. This indicates that exports from Taiwan (excluding the exempt exporters) are likely to resume if the measures expire.

⁷⁶ DISR, '[Guidelines on the application of forms of dumping duty](#)', Anti-Dumping Commission, Australian Government, 2013.

Thailand

Figure 20 shows the movement in imports from Thailand since year ending September 2013.

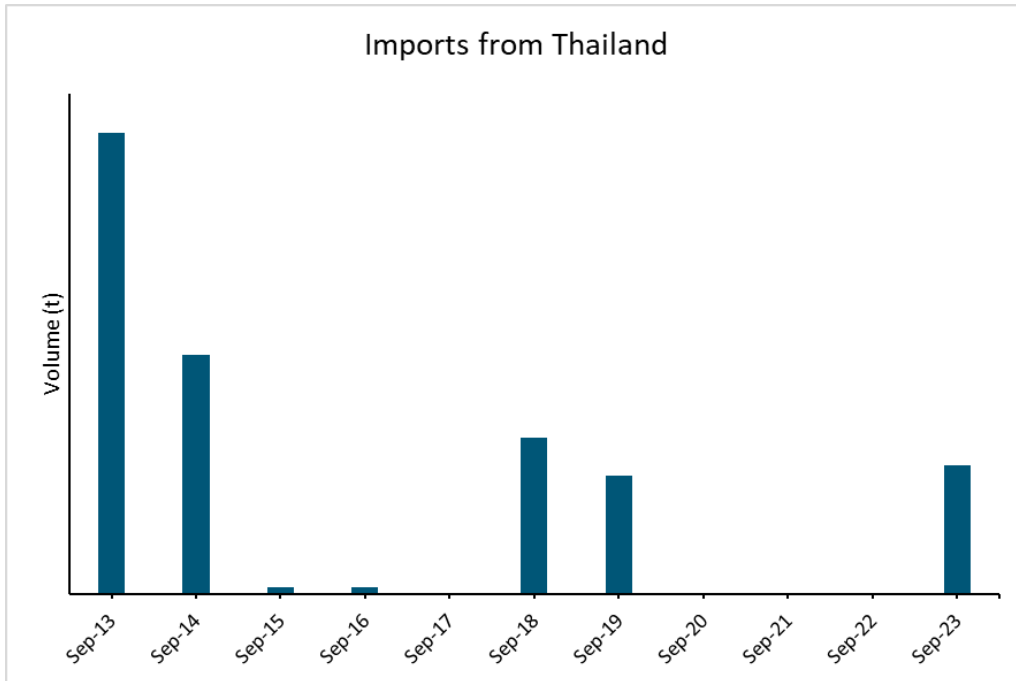


Figure 20: Movement in imports from Thailand

Imports from Thailand appear to have stopped following the initiation and imposition of securities in INV 223. Measures were imposed in the form of an *ad valorem* method.⁷⁷

Imports from Thailand resumed in 2018, following a change in measures to the floor price method because of *Review 346*.⁷⁸

Imports then stopped again in 2019 following the change of measures to the combination method because of *ADRP Review no 120*.⁷⁹ Imports from Thailand did resume in 2023.

The commission considers that this evidence and analysis demonstrates that when measures change (both the form of measures and the amount of duty) providing favourable price conditions for exporters from Thailand, they will increase their volume of exported goods to Australia.

The commission considers that this indicates that exporters from Thailand have changed behaviour in response to changes in measures. The commission considers that if the measures expire, it is likely that exports from Thailand will increase.

⁷⁷ Refer to [ADN 2014/127](#).

⁷⁸ Refer to [ADN 2016/98](#).

⁷⁹ Refer to Public Notice – Ministers Decision, [ADRP Review No. 120](#).

7.5.2 Maintenance of distribution links

Japan

The commission has found that exporters from Japan have maintained distribution links with the Australian market following CON 505. The same exporter-importer relationships have been maintained since 2018.

The commission considers that it is likely that exporters from Japan will continue to maintain distribution links with the Australian market.

ROK

Hyundai Steel has exported to Australia continuously since CON 505. The commission considers that this demonstrates that Hyundai Steel is likely to continue to maintain distribution links to the Australian market.

There were no other exporters of HRSS from the ROK during the inquiry period.

Taiwan

Dragon Steel did not export the goods to Australia during the inquiry period and has not exported the goods to Australia since 2019. When Dragon Steel did export the goods to Australia, it did so to a customer that had not previously imported from Taiwan. The commission considers that this demonstrates that Dragon Steel can establish new relationships with customers in Australia. The commission considers that Dragon Steel could re-establish distribution links in the Australian market if its exports to the Australia resume.

Sanwa submitted that it 'represents Tung Ho on an exclusive basis for sales into the distributor market in Australia'.⁸⁰ Given the nature of this relationship, the commission considers that it is unlikely that Sanwa would begin importing from Dragon Steel if its exports to Australia resumed. The commission does not consider that this is a barrier to Dragon Steel resuming exports to Australia.

In its submission of 15 August 2024, Dragon Steel submitted that its requirement for minimum order quantities is a barrier to establishing new distribution links.⁸¹ The commission has analysed Dragon Steel's claims relating to its minimum order quantities in section 7.7.4. The commission considers that minimum order quantities are not a significant barrier to Dragon Steel recommencing exports to Australia. A comparison of Dragon Steel's exports in REV 499 with other exporters of the goods suggests that customers order similar volumes. Accordingly, the commission considers that Dragon Steel has the proven ability to establish new distribution links, and there is no barrier to it doing so again in the future.

⁸⁰ [EPR 637](#), no 3.

⁸¹ [EPR 637](#), no 20, p 3.

Thailand

The commission found that exports from Thailand during the inquiry period were to a customer that had not previously imported from Thailand. The commission considers that this shows that exporters from Thailand have maintained distribution links to the Australian market. In addition, it demonstrates that exporters from Thailand can develop new relationships with customers in Australia.

7.5.3 Excess production capacity in subject countries

The commission analysed the excess production capacity data for Hyundai Steel and Dragon Steel. Both exporters submitted capacity utilisation data for the inquiry period. The commission determined that excess capacity for these exporters ranged between 30% to 35%.

The commission did not receive REQs from Japan or Thailand, and therefore does not have the production capacity data for those exporters. However, in its application Liberty Primary provided information regarding excess production capacity in each of the subject countries. Liberty Primary calculated that according to the World Steel Association and Organisation for Economic Co-operation and Development (OECD), excess crude steelmaking capacity in Japan and Thailand was approximately 29% and 54%, respectively.⁸² The commission considers that, while not exact, crude steelmaking capacity is a reasonable proxy for production capacity for HRSS. Previously verified exporters in Japan and Thailand produced HRSS from self-produced steel.⁸³ Accordingly, any excess capacity in crude steel production would translate into excess capacity for HRSS production.

Liberty Primary also commented that Japan had investment underway which would further increase steelmaking capacity.

Based on the information provided by the cooperating exporters and the information in Liberty Primary's application, the commission considers that subject exporters maintain excess production capacity. The commission has no evidence before it that displaces the evidence provided by Liberty Primary. The high levels of excess production capacity have the potential to be directed towards Australia, particularly if the measures expire.

⁸² [EPR 637](#), no 1, p 6.

⁸³ [EPR 223](#), no 61 and [EPR 499](#), no 26 respectively.

7.5.4 Excess production capacity in China

In its application, Liberty Primary considered that excess production capacity in China was also a relevant consideration in assessing whether exports from the subject countries will continue.⁸⁴ Liberty Primary claims that ‘excess capacity in China encourages Chinese manufacturers to seek export markets for their products, including domestic markets of the exporters the subject of these measures.’

The commission considers that excess production capacity in China is a relevant consideration when assessing whether exports from the subject countries will continue.

The commission has found:

- there is excess steel production capacity in China
- excess steel production capacity in China has led to lower steel prices and increased exports of steel from China
- increased exports of steel from China have been to surrounding countries, including the subject countries
- imports of steel from China into Taiwan have increased from 2023 to 2024.

In making these findings, the commission has had regard to the following information.

The Q4 2023 OECD report on steel market developments outlines that excess capacity in China has resulted in increases in exports to the subject countries:

China, the world's largest steel producer, has seen its trade balance in steel products widen significantly so far in the first quarter of the year. Exports are at their highest level since 2016, amounting to 79 mmt in annualised terms (+20% vs 2022), while imports plummeted to 10 mmt from 17 mmt in 2022 (-40%). Low domestic demand in the construction sector, coupled with a weak RMB, helped to keep down prices of Chinese steel products, which found place in foreign markets, in particular ASEAN countries, that have experienced an increase in steel demand in the first quarter of 2023.⁸⁵

The commission considers that the increased exports from China into the domestic markets of the subject countries is likely to encourage exporters from the subject countries to seek out export markets, including Australia. If the measures expire, it will make Australia a more attractive export market.

⁸⁴ [EPR 637](#), no 1, pp 14-15.

⁸⁵ Organisation for Economic Co-operation and Development (OECD), '[Steel Market Developments Q4 2023](#)', OECD, 2023, accessed 1 May 2024, p 34.

PUBLIC RECORD

In its submission of 15 August 2024, Dragon Steel submitted that the assessment of excess capacity in China in the SEF was based on incomplete information.⁸⁶ Dragon Steel highlighted that the commission’s analysis did not consider:

- the type of steel that may be exported from China to Taiwan
- Dragon Steel’s focus on supplying the domestic market in Taiwan
- more contemporary information relating to the effects of excess capacity in China
- domestic supply and demand in Taiwan.

The commission does not have access to information that details the specific type of steel that is being exported from China to Taiwan. However, the Taiwanese Ministry of Finance provides statistics (as referenced by Dragon Steel in its submission) that includes imports of ‘Iron and Steel and Articles Thereof’, which includes HRSS. Recent statistics show that imports of Iron and Steel and Articles Thereof from China have increased in 2024 when compared to 2023.

		(1)Iron and Steel and Articles Thereof
2023	Mainland China	1,906,996
2023 Jan.	Mainland China	135,278
2023 Feb.	Mainland China	87,481
2023 Mar.	Mainland China	157,228
2023 Apr.	Mainland China	189,810
2023 May	Mainland China	152,315
2023 June	Mainland China	158,741
2023 July	Mainland China	138,560
2023 Aug.	Mainland China	195,310
2023 Sept.	Mainland China	162,985
2023 Oct.	Mainland China	194,040
2023 Nov.	Mainland China	163,212
2023 Dec.	Mainland China	172,036
2024 (Jan.~July)	Mainland China	1,455,589
2024 Jan.	Mainland China	210,547
2024 Feb.	Mainland China	123,627
2024 Mar.	Mainland China	234,644
2024 Apr.	Mainland China	200,604
2024 May	Mainland China	235,465
2024 June	Mainland China	225,072
2024 July	Mainland China	225,630

Table 13: Imports of Iron and Steel and Articles Thereof to Taiwan from China⁸⁷

⁸⁶ EPR 637, no 20, p 4.

⁸⁷ In USD thousands. Taiwan Ministry of Finance, [Trade Statistics Database](#), Taiwan Ministry of Finance website, 2024, accessed 23 August 2024.

PUBLIC RECORD

The commission acknowledges Dragon Steel's comments regarding the current focus of its domestic supply. However, as outlined in section 7.5.3, the commission found that Dragon Steel had significant excess capacity during the inquiry period. The commission considers that this indicates that Dragon Steel can service both domestic and export markets.

Further, recent comments by Dragon Steel's parent company, China Steel Corporation (CSC), highlight the impacts of Chinese imports of steel into Taiwan. CSC stated that it is lowering its prices in response to increased exports of low-priced steel from China.⁸⁸ The commission considers that this demonstrates that the effects of Chinese imports are not limited to volume but extend to price as well. Decreasing prices in the domestic market provides an incentive for Dragon Steel to seek out alternate markets, including Australia, if the measures expire.

Recent reporting by the Global Forum on Steel Excess Capacity (GFSEC) also highlights the effects of Chinese excess capacity on domestic steel producers in other countries.⁸⁹

Excess capacity in China could have different effects on the steel exports of other countries. On the one hand, as steel imports from China rise to meet local demand (Key empirical result 3), domestic steel producers may export the steel that is no longer needed domestically, in order to keep production running at desired levels.⁹⁰

The GFSEC also states that there may also be a negative effect on a country's exports where that country competes with Chinese exporters in third country markets. The commission does not consider that this would occur for exports of HRSS to Australia, as the volume of exports from China to Australia are limited when compared to exports from Taiwan.

7.5.5 Trade measures in other jurisdictions

In its application, Liberty Primary referred to trade measures in the USA and the EU.⁹¹ Liberty Primary submitted that these trade measures are 'a factor that influences global trade by altering comparative access to markets.' Liberty Primary claims that if the measures expire, it will make Australia a 'more attractive and accessible market' when compared to other jurisdictions with current trade measures.

⁸⁸ Chen C, '[China Steel announces price cut in response to China's excessive exports](#)', *Taipei Times*, 16 August 2024, accessed 22 August 2024.

⁸⁹ Global Forum on Steel Excess Capacity (GFSEC), '[Impacts of global excess capacity on the health of GFSEC steel industries](#)', GFSEC, 2024, accessed 23 August 2024, sections 4.2 and 4.3.

⁹⁰ *Ibid*, para 35.

⁹¹ [EPR 637](#), no 1, p 16.

PUBLIC RECORD

The commission agrees that trade measures in other jurisdictions affect the global trade of steel products. Steel market intelligence obtained by the commission demonstrates that trade defence measures in the USA and EU have exposed steel markets in East Asia to Chinese exports.⁹² As discussed in section 7.5.4, pressure from Chinese imports is likely to encourage exporters in the subject countries to seek out export markets, including Australia.

There is also no indication that these trade measures will ease in the future. Recently, the President of the United States of America proposed raising tariffs on certain Chinese steel products.⁹³

In its submission of 15 August 2024, Dragon Steel submitted that there was a lack of evidence which supported that trade measures in other jurisdictions were a supporting factor in its recurrence of exports.⁹⁴ However, Dragon Steel did not provide any evidence displacing the commission's findings in SEF 637 that trade in other jurisdictions is a relevant factor to the commission's assessment of whether exports are likely to continue.

The commission considers that the information obtained through its steel market intelligence, together with the factors outlined in section 7.5.4, support a finding that exports from China into the subject countries will put pressure on exporters in those countries to seek out export markets, including Australia. In summary:

- Exporters in China are incentivised to seek out alternate markets to reduce excess capacity.
- These exporters are also avoiding markets with strong trade measures, including the EU and USA.
- This has led to an increase in exports from China into surrounding countries, including the subject countries.

In the absence of contradictory evidence, the commission maintains its finding that the presence of trade measures in other jurisdictions is a relevant factor in assessing the likelihood of exports continuing to Australia from the subject countries in the event that the measures were to expire.

⁹² **Confidential Attachment 12.**

⁹³ T Hunnicutt, S Holland and D Lawder, '[Biden calls for higher tariffs on Chinese steel](#)', *Reuters*, 18 April 2024, accessed 1 May 2024.

⁹⁴ [EPR 637](#), no 20, pp 5-6.

7.5.6 ACRS certification

Whilst not compulsory, ACRS certification is a generally preferred minimum market requirement for the supply of HRSS into the Australian market.

Steel mills with ACRS certification are subject to the manufacturing and testing processes prescribed by ACRS to meet the requirements of the Australian Standard. ACRS certifies that the steel mill complies with the nominated standards. Imported HRSS sold in the Australian market generally originates from mills that are ACRS certified.

Table 14 outlines the current ACRS certification in the subject countries.⁹⁵

Country	Exporter	Certification
Japan	N/A	No certification covering the goods subject to measures
ROK	Hyundai Steel	Universal beams Universal columns Parallel flange channels
Taiwan	Dragon Steel	Universal beams Universal columns
Thailand	Siam Yamato Steel	Universal beams Universal columns Parallel flange channels Equal angles

Table 14: Current ACRS certification in the subject countries

Given the requirements placed on exporters to maintain ACRS certification, the commission considers it reasonable to conclude that exporters with ACRS certification intend to continue to supply the Australian market.

Although no exporters from Japan hold a current certification that covers the goods subject to measures, exports from Japan have continued. The commission considers that this supports that ACRS is not a compulsory requirement to export to Australia.

⁹⁵ Australasian Certification Authority for Reinforcing and Structural Steels (ACRS), [ACRS](https://www.steelcertification.com), steelcertification.com, 2024, accessed 26 June 2024.

7.5.7 Carbon Border Adjustment Mechanisms

Liberty Primary claimed in its application that the introduction of mechanisms to prevent carbon leakage are likely to have distortive effects on trade.⁹⁶ Liberty Primary highlighted mechanisms such as the EU's Carbon Border Adjustment Mechanism (CBAM).

The intent of the CBAM is to put a price on the carbon emitted during the production of carbon intensive goods that are entering the EU. This mechanism seeks to ensure that the carbon price of imports is equivalent to the carbon price of domestic production.

Liberty Primary claims that this means that:⁹⁷

Exporters that either have high embodied carbon emissions or are unable to meet strict carbon reporting requirements, are likely to have higher costs imposed on their products when imported.

Liberty Primary considers that this will make it more attractive to export to markets without a CBAM or similar mechanism in place. It noted that Australia is currently such a market.

The commission considers that increased costs associated with CBAMs, or similar mechanisms could increase the attractiveness of export markets that do not have such mechanisms. However, the commission does not consider such mechanisms as they currently stand support a finding that exports are likely to continue or recur.

The CBAM implemented by the EU is only in a transitional phase until 2026.⁹⁸ In addition, Australia is also looking into the feasibility of implementing its own CBAM as part of Australia's Carbon Leakage Review.⁹⁹

In its submission of 15 August 2024, Liberty Primary resubmitted that EU's CBAM has the potential for trade distortion towards markets without a CBAM (including Australia). This includes the transitional phase on the basis that it places a number of reporting obligations on importers for which penalties apply if such obligations are not complied with.¹⁰⁰

Whilst the transitional phase of the CBAM places a number of reporting obligations on importers, it does not yet impose any financial obligations. In this regard, the commission considers it unlikely that a shift in exports will occur during the transitional phase.

⁹⁶ [EPR 637](#), no 1, p 16.

⁹⁷ [EPR 637](#), no 1, p 10.

⁹⁸ Taxation and Customs Union, '[Carbon Border Adjustment Mechanism](#)', Taxation and Customs Union website, 2023, accessed 26 June 2024.

⁹⁹ Department of Climate Change, Energy, the Environment and Water (DCCEEW), '[Australia's Carbon Leakage Review](#)', DCCEEW website, 2023, accessed 26 June 2024.

¹⁰⁰ [EPR 637](#), no 19, p 11.

PUBLIC RECORD

Liberty Primary further submitted concerns that the potential for trade distortion towards markets without a CBAM will exacerbate as of 1 January 2026 when the permanent and complete EU CBAM system enters into force.

The commission considers that CBAM is at its infancy, with the EU being the first jurisdiction to implement an emissions trading mechanism. Global commerce has had no prior exposure to such a mechanism and there is currently an absence of data to assist in informing the impacts of CBAM. The commission further considers that any views on CBAM currently are hypothetical and predictive, and not an observation based on past events of a similar nature.

7.6 Will dumping continue or recur?

The commission considers that the expiry of the measures would be likely to lead to a continuation or recurrence of dumping of the goods from the subject countries.

This finding is based on the following significant factors:

- The goods exported from Japan and Thailand during the period were estimated to be dumped.
- Exports from the ROK have been calculated to have been dumped during the period.
- If exports from Taiwan were to resume, they would likely be at dumped prices to compete with other exports from Taiwan.
- The goods exported from all subject countries were dumped in the original investigation, and the period examined in REV 499.
- The price sensitive nature of the Australian HRSS market promotes a high level of competition between exports from the subject countries. This price competition means that there will be increased downwards pressure on export prices if the measures expire.
- A decrease in export prices means that dumping is likely to continue or recur.

As part of this finding, the commission has considered:

- dumping margins for exports from the subject countries
- previous dumping margin assessments
- an assessment of current pricing subject to measures
- an assessment of the competitiveness of prices not subject to measures.

The commission's assessment is outlined in sections 7.6.1 to 7.6.4.

The commission considers that the consistent dumping behaviour of exporters from Japan and Thailand and price sensitivity of the Australian HRSS market support a finding that dumping is likely to continue from these countries.

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The commission found that if Dragon Steel was to export at the same prices as exports from Taiwan not subject to measures, its exports are not likely to be dumped. However, the commission considers that it is likely that exports from Dragon Steel would be dumped. This is based on the previous dumping behaviour of Dragon Steel and the competition with other Taiwanese exports not subject to measures. It is likely that Dragon Steel would have to export at prices which undercut other Taiwanese exporters, leading to the recurrence of dumping.

The commission considers it is likely that Hyundai Steel will continue dumping. This is based on the current dumping margin for Hyundai Steel, previous dumping assessments, and movements in import volumes and market share. Hyundai Steel has been, and remains, one of the largest exporters to Australia. It has been able to maintain its market share while measures are in place. Accordingly, the commission considers that it is likely that Hyundai Steel will maintain a continued behaviour of dumping.

7.6.1 Dumping margin analysis

Table 15 summarises the commission's assessment of dumping during the inquiry period relating to exports from the subject countries.

Country	Exporter	Dumping margin
Japan	All exporters	18.6%
ROK	Hyundai Steel	5.2%
Taiwan	Dragon Steel	N/A
Thailand	All exporters	22.5%

Table 15: Assessment of dumping in the inquiry period

As outlined in section 2.4.1, the commission received REQs from Hyundai Steel (ROK) and Dragon Steel (Taiwan). The commission used the exporter's data to assess whether exports from these countries were likely to have been dumped during the inquiry period.

ROK

The commission found that Hyundai Steel's exports to Australia were dumped during the inquiry period.

There were no other exporters from the ROK during the inquiry period. The commission considers that other exporters from the ROK would have similar domestic and export prices to Hyundai Steel. Accordingly, it is likely that any exports from other exporters from the ROK would have been dumped in the inquiry period. The commission has not received any information or evidence that displaces this finding.

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In its submission of 13 August 2024, Hyundai Steel submitted that the commission's assessment of dumping should be made without regard to the current measures.¹⁰¹ Hyundai Steel submits that its level dumping in the inquiry period should be assessed as though there was no measure in place. The commission cannot disregard the actual facts of the exportation. It is a fact that during the inquiry period, the measures applied to Hyundai Steel's exports, and it paid the IDD on those exports. These are relevant circumstances of the exportation and for determining the export price.

The commission agrees with Hyundai Steel that the continuation assessment is a forward-looking assessment. However, as highlighted by Liberty Primary in its submission of 26 August 2024, the commission's assessment is not based solely upon the determination of dumping during the inquiry period.¹⁰² Instead, it is based on the totality of factors as outlined in this chapter.

Taiwan

There were no exports of the goods subject to measures from Taiwan during the inquiry period. As outlined in section 7.3, the commission has examined information from Dragon Steel to assess whether exports from Taiwan subject to measures are likely to be dumped.

To assess whether exports from Taiwan subject to measures would be dumped, the commission compared Dragon Steel's normal value to the weighted average FOB price of imports from Taiwan during the inquiry period. The commission's analysis shows that it is likely that Dragon Steel's exports would not have been dumped if it exported at those prices. The estimated margin between Dragon Steel's normal value and the FOB import prices was negative 2%. However, as detailed in section 7.6.3, the commission considers that Dragon Steel would likely export at prices lower than those not subject to measures from Taiwan if the measures were to expire.

The commission's assessment of dumping from Taiwan is at **Confidential Attachment 11**.

Japan and Thailand

As outlined in section 2.4.1, the commission did not receive any REQs from exporters from Japan and Thailand. The commission has used the best available information to assess whether exports from these countries were likely to have been dumped during the inquiry period.

The commission considers that it is likely that exports from Japan and Thailand were dumped during the inquiry period (sections 6.3.3 and 6.3.4).

¹⁰¹ [EPR 637](#), no 18, pp 2-3.

¹⁰² [EPR 637](#), no 22, pp 4-5.

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7.6.2 Previous dumping margin assessments

Table 16 details the dumping margins assessed for the subject countries in past cases.

Country	Exporter	INV 223	Interim reviews	REV 499 & ADRP Review no 120
Japan	JFE Bars and Shapes Corporation	12.15% <i>Ad valorem</i>	N/A	N/A
	All other exporters	12.23% <i>Ad valorem</i>	N/A	12.2% Combination
ROK	Hyundai Steel	2.52% <i>Ad valorem</i>	9.9% Combination	4.7% Combination
	All other exporters	3.24% <i>Ad valorem</i>	13.9% Combination	7.9% Combination
Taiwan	Dragon Steel	7.89% ¹⁰³ <i>Ad valorem</i>	Floor price	9.0% Combination
	All other exporters	7.89% <i>Ad valorem</i>	N/A	12.3% Combination
Thailand	Siam Yamato Steel Co Ltd	18.00% ¹⁰⁴ <i>Ad valorem</i>	Floor price	7.8% Combination
	All other exporters	19.48% <i>Ad valorem</i>	N/A	7.7% Combination

Table 16: Summary of previous dumping margins and duty methods

Together, Table 15 and Table 16 show the following:

- Exporters from Japan and Thailand have been found to be dumping in previous cases and have been estimated to be dumping during the inquiry period.
- Hyundai Steel has been found to be dumping in past cases and was found to be dumping during the inquiry period.
- Dragon Steel was found to be dumping in REV 499.

Japan

The commission has previously assessed exports from Japan over 2 separate 12-month periods (INV 223 and REV 499). For both of those periods, exports from Japan were found to be dumped.

The commission considers that past behaviour of dumping by exporters from Japan is an indicator that dumping is likely to continue if the measures expire.

¹⁰³ Dragon Steel fell under 'All other exporters' in INV 223.

¹⁰⁴ Refer to Public Notice – Parliamentary Secretary's Decision, [ADRP Review No. 2015/20](#).

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In the absence of information from exporters from Japan, the commission has considered the dumping findings from past cases and compared them to the assessment of dumping during the inquiry period. This comparison demonstrates that the level of dumping has increased (~12.2% to 18.6%). No information displacing this finding has been put to the commission. The commission considers that the consistency in previous dumping findings support a finding that dumping from Japan is likely to continue.

ROK

The commission has previously assessed exports from Hyundai Steel over 3 separate 12-month periods (INV 223, REV 465, and REV 499). Over this time, Hyundai Steel has demonstrated a consistent behaviour of dumping.

The commission considers that this consistency in dumping behaviour is an indicator that dumped exports from Hyundai Steel are likely to continue if measures expire.

The commission also previously assessed that all other exports from the ROK were at dumped prices. The commission considers that this indicates that dumping from all other exporters from the ROK is likely to continue or recur if the measures expire.

Taiwan

The only period in which exports from Dragon Steel were examined was in REV 499. That review found that exports from Dragon Steel were dumped.

The commission notes that both TS Steel and Tung Ho were found not to be dumping during the review period for REV 499. The commission considers that this indicates that Dragon Steel is only able to compete with other exports from Taiwan at dumped prices.

The commission considers that past behaviour of dumping by Dragon Steel is an indicator that dumping is likely to continue if the measures expire.

The commission also previously assessed that all other exports from Taiwan were at dumped prices. The commission considers that this indicates that dumping from all other exporters from Taiwan is likely to continue or recur if the measures expire.

Thailand

Exports from Thailand were found to be dumped in 2 out of 3 previously assessed 12-month periods (INV 223 and REV 499). However, the commission notes that in the period that exports from Thailand were found not to be dumped (1 January 2015 to 31 December 2015), the volume of exports was low (Figure 20).

The commission considers that this indicates that exports from Thailand were not competitive when exported at prices that are not dumped. Indeed, exports from Thailand had increased significantly in the review period for REV 499, in which exports were found to be dumped.

The commission considers that past behaviour of dumping by exporters from Thailand is a potential indicator that dumping is likely to continue if the measures expire.

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In the absence of information from exporters from Thailand, the commission has considered the dumping findings from past cases and compared them to the assessment of dumping during the inquiry period. This comparison demonstrates that the level of dumping has increased (~7.7% to 22.5%). No information displacing this finding has been put to the commission. The commission considers that the consistency in previous dumping findings support a finding that dumping from Thailand is likely to continue.

7.6.3 Assessment of current pricing subject to measures

ROK

Figure 16 shows that the ROK has maintained a significant volume of imports into Australia. Since 2015 the ROK has maintained the largest share of imports while being subject to measures. The assessment of dumping in sections 7.6.1 and 7.6.2 shows that Hyundai Steel has only been able to maintain this dominant position through exporting at dumped prices.

There were no other exporters from the ROK during the inquiry period. The commission considers that if other exporters were to commence exporting, they would likely do so at prices that matched or were lower than Hyundai Steel's. Any exports from the ROK at these prices would likely be dumped.

The commission considers that this supports the finding that exports from the ROK are likely to continue dumping.

Taiwan

There have been no exports from Taiwan subject to measures in the inquiry period. There have been exports from Taiwan in the inquiry period which were not subject to measures.

The commission considers that if exporters subject to measures were to resume exporting to Australia, it is likely that these exports would be priced competitively with exports from Taiwan not subject to measures.

As reflected in the commission's analysis in section 7.6.1, it is likely that exports from Dragon Steel would not be dumped if it were to resume exporting at prices at or above exports from Taiwan not subject to measures. However, the commission considers that it is likely that if Dragon Steel were to resume exporting to Australia, it would be at prices that undercut other exporters from Taiwan. This is based on the following analysis.

Exports during the period were primarily from Tung Ho. Tung Ho has maintained a dominant share of export volume from Taiwan since CON 505. If Dragon Steel were to resume exporting, it is likely that it would have to do so at prices lower than Tung Ho to capture market share in a price sensitive market. As detailed in section 6.3.2, the commission has assessed the dumping margin for Dragon Steel by comparing import prices for other exporters from Taiwan to Dragon Steel's normal value. Given the size of the estimated dumping margin (negative 2%), it is likely that if Dragon Steel resumed exporting at lower prices they would fall below its normal value. This would mean that those exports are likely to be dumped.

This is further supported by the commission's finding in REV 499 that exports from Dragon Steel were dumped. As detailed in section 7.5.1, the commission considers that

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Dragon Steel's export behaviour changed in response to the measures. Dragon Steel was able to commence exporting to Australia when it was subject to a floor price. However, as found in REV 499, those exports were dumped. The commission considers that this indicates that Dragon Steel can only compete with other exporters from Taiwan when it exports at dumped prices.

The commission does not have information from any other exporter from Taiwan that is subject to the measures. For the reasons outlined above in respect of Dragon Steel, if other exporters from Taiwan were to commence exporting to Australia, they would have to do so at prices which undercut other Taiwanese exporters.

The commission considers that any future exports from Taiwan (excluding the exempt exporters) are likely to be dumped.

Japan and Thailand

From examination of ABF import data, the commission has found that FOB prices for imports from Japan and Thailand closely followed those for the ROK and Taiwan. Contrary to the ROK, the commission considers that imports from Japan and Thailand are likely at dumped prices.

The commission considers that if the measures expire, exports from Japan and Thailand would continue to track closely with prices from the ROK and Taiwan. Without the barrier of dumping duties, the commission considers that it is likely that prices from Japan and Thailand will decrease to regain market share and capitalise on the increase in competitiveness.

The commission considers that the current pricing from Japan and Thailand support a finding that it is likely that exports from Japan and Thailand will continue to be dumped if the measures expire.

The commission's analysis is at **Confidential Attachment 4**.

7.6.4 Estimate of competitiveness of prices not subject to measures

Following CON 505, exports from TS Steel and Tung Ho were made exempt from the measures. These exporters were made exempt as it was found that dumping was not likely to continue or recur.

Figure 16 shows that imports from Taiwan that are not subject to the measures have increased since year ending September 2020. The volume of these imports remains the highest after the ROK.

The commission considers that the prices from Taiwan that are not subject to measures remain competitive with other exporters.

7.7 Will material injury continue or recur?

The commission considers that the expiry of the measures in relation to exports from the subject countries would be likely to lead to a continuation or a recurrence of material injury that the measures are intended to prevent.

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This finding is based on the following significant factors:

- The commission has found that dumping from the subject countries is likely to continue or recur.
- Exporters from the subject countries have demonstrated changes in exporting behaviour in response to the measures.
- Exports from the subject countries have undercut Liberty Primary's selling prices.
- Liberty Primary has considerable regard to import prices through its IPP model.
- Exporters from the subject countries had significant excess production capacity during the inquiry period.
- The expiry of measures would provide exporters from the subject countries with a price advantage in a price sensitive market.
- A reduction in import prices as exporters seek to compete in a market absent of measures and the associated increase in import volumes would likely lead to a continuation or recurrence of the material injury experienced by Liberty Primary.

As part of this finding, the commission has assessed:

- the Australian HRSS market
- effects of exports from the subject countries
- other injury factors.

The commission's assessment is outlined in sections 7.7.1 to 7.7.6.

The commission considers that if the measures expire, export competition between the subject countries would likely increase. The price sensitive nature of the Australian HRSS market means that price is main point of competition between suppliers. The commission considers that exporters from Japan and Thailand would seek to compete with exporters from the ROK and Taiwan. Exporters from Taiwan that are currently subject to measures would also seek to compete with exporters from Taiwan that are not subject to measures. This increase in competition would also affect the prices from the ROK, as it faces increased competition from the other subject countries.

The operation of an IPP model by Liberty Primary means that it will face increased pressure to lower its prices in response to lowered export prices of the goods. This will lead to an increase in the price suppression experienced by Liberty Primary and is likely to lead to price depression.

The excess production capacity evident in all the subject countries would allow for a significant increase in export volumes. This in turn will lead to a reduction in Liberty Primary's own sales volumes and a loss of market share.

7.7.1 Australian market

In CON 505 the commission determined the Australian market to be price sensitive with a high degree of price elasticity. As detailed in section 4.6, the commission still considers this to be the case.

The commission has also confirmed that Liberty Primary continues to set its prices based on the IPP plus a premium, which involves negotiating prices with reference to import price offers. Therefore, Liberty Primary has considerable regard to match these price

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offers, and consequently they likely suffer material injury in terms of price suppression and lost sales volumes. Applying this IPP model means that Liberty Primary is susceptible to injury from dumped imports.

Using the best available information, the commission conducted a price comparison analysis of Liberty Primary and landed prices from the subject countries, China, Vietnam, and all other countries.¹⁰⁵ The analysis showed that during the inquiry period, landed export prices significantly undercut Liberty Primary's prices. Coupled with the operation of the IPP, the commission considers that it is likely Liberty Primary will continue to experience material injury caused by undercutting. In addition, Liberty Primary was found to be experiencing price suppression in section 5.5.1. This means the level of undercutting does not represent the full extent of injury to Liberty Primary.

At the industry verification, Liberty Primary provided evidence including examples of where customers rejected its price and elected to purchase from subject exporters.

The commission's undercutting analysis is at **Confidential Attachment 4**.

Evidence provided by Liberty Primary is at **Confidential Attachment 13**.

7.7.2 Japan

As outlined in section 6.3.3, the commission considers that exports to Australia from Japan were likely dumped during the inquiry period.

As outlined in section 7.5.1, the commission has also found that exports from Japan have changed in response to changes in the measures.

The commission considers that if the measures expire, Japanese exporters will gain a price advantage by dumping.

Landed prices from Japan were among the lowest of the subject countries in the inquiry period. The landed price analysis does not include any IDD. The commission considers that this indicates that if the measures expire, Japanese exports will gain an immediate price advantage. Japanese exporters are currently subject to one of the highest rates of IDD (Table 3). In addition to the high rate of IDD, exports from Japan are also subject to a floor price. Removal of the floor price if the measures expire will provide exporters from Japan with the ability to reduce prices even further.

This will in turn place downward price pressure on Liberty Primary's prices. The commission considers that this will likely result in price depression and/or suppression as Liberty Primary seeks to match the lower priced offers. If Liberty Primary is unable or unwilling to meet the price of dumped goods, it will likely lose sales volumes and market share to the lower priced dumped exports.

In addition, the commission's analysis in section 7.5.3 indicates that there is likely significant excess capacity for steelmaking in Japan. The commission considers that the price advantage gained from the expiry of measures, coupled with the ability to direct

¹⁰⁵ China and Vietnam were two of the high-volume export countries, along with the subject countries.

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excess capacity towards Australia, means that injury caused by dumped exports from Japan is likely to be material.

In consideration of the above analysis and other injury factors in respect of Japan, the commission considers that it is likely that material injury will continue or recur from Japanese exporters if the measures expire.

7.7.3 ROK

As outlined in section 6.3.1, Hyundai Steel is the sole exporter from the ROK to Australia and as indicated in section 7.6 Hyundai Steel was found to be dumping during the inquiry period.

As outlined in section 7.5.2, Hyundai Steel has exported to Australia continuously since CON 505. Despite being subject to measures, Hyundai Steel remains one of the largest exporters of the goods to Australia.

Hyundai Steel is currently subject to the lowest effective rate of duty. The commission considers that if the measures expire, Hyundai Steel would face increased competition from exporters from the subject countries. Given the price sensitive nature of the Australian market for HRSS, the commission considers that Hyundai Steel would then be under pressure to reduce its prices to maintain its market share.

As stated in section 7.7.1, landed prices from subject countries including the ROK have significantly undercut Liberty Primary's prices. During verification, Liberty Primary presented evidence to indicate Hyundai Steel engaged in aggressive pricing strategy and had competed with exporters from subject countries in other global markets.

The commission considers that this price undercutting and aggressive pricing strategy will place downward price pressure on Liberty Primary's prices. This will likely result in price depression and/or suppression as Liberty Primary seeks to match the lower priced offers. If Liberty Primary is unable or unwilling to meet the price of dumped goods, it will likely lose sales volumes and market share to the lower priced dumped exports.

The commission has also found that Hyundai Steel had excess production capacity greater than 30% during the inquiry period. The commission considers that this excess capacity has the potential to be directed towards Australia, particularly if the measures expire. Any increased in dumped exports from ROK if the measures expire would likely be material.

In consideration of the above analysis in respect of the ROK, the commission considers that it is likely that material injury caused by dumped exports will continue or recur from the ROK if the measures expire.

7.7.4 Taiwan

There were no exports from Taiwan to Australia subject to measures during the inquiry period. The commission considers that this indicates exporters from Taiwan that are subject to measure cannot compete with those that are not.

As outlined in section 7.5 and 7.6, the commission considers that dumped exports from Taiwan (excluding the exempt exporters) are likely to recur if the measures expire.

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The commission considers that, if the measures expire, Taiwanese exporters currently subject to measures will seek to gain a price advantage over exporters not subject to measures by dumping. Those exporters will use lower prices to establish market share. The removal of the measures would provide exporters from Taiwan currently subject to measures with a price advantage, allowing them to re-enter the Australian market.

The commission considers that the price of Taiwanese exports will place downward pressure on Liberty Primary's prices. This will likely result in price depression and/or suppression as Liberty Primary seeks to match the lower priced offers. If Liberty Primary is unable or unwilling to meet the price of dumped goods, it will likely lose sales volumes and market share to the lower priced dumped exports.

Dragon Steel also had significant excess capacity during the inquiry period. The commission considers that Dragon Steel can quickly establish new distribution links and would be able to direct its excess capacity to Australia. Coupled with the increased competitiveness of its exports if the measures expire, this means that injury from dumped exports from Dragon Steel is likely to be material. If other exporters from Taiwan have similar levels of excess capacity, it is also likely that any volumes will be material.

In consideration of the above analysis and other injury factors in respect of Taiwan, the commission considers that it is likely that material injury will continue or recur from Taiwanese exporters if the measures expire.

In its submission dated 23 June 2024 Dragon Steel contended that material injury caused by imports from Taiwan is not likely to recur.¹⁰⁶ Most of Dragon Steel's claims focus on the lack of exports subject to measures from Taiwan during the inquiry period.

¹⁰⁶ [EPR 637](#), no 13.

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The commission notes that its recommendation pursuant to section 269ZHF(2) requires an assessment of what is likely to happen if the measures expire. This is a forward-looking assessment. The ADRP has similarly observed that a continuation inquiry requires a prospective examination of the likelihood of both future dumping and material injury.¹⁰⁷ Current market conditions can help inform the commission about what is likely to happen, but they are not the only determinative factor.

The commission considers that material injury caused by dumped exports from Taiwan is likely to recur if the measures expire.

Volume effects

The commission's assessment is based on what is likely to happen if the measures expire. Although there are currently no exports from Taiwan subject to measures, the commission considers that it is likely that these exports will resume if the measures expire. The commission's assessment is outlined in section 7.5. This includes consideration of Dragon Steel's export behaviour in response to changes in the measures.

In its submissions of 22 June 2024 and 15 August 2024, Dragon Steel submitted that it is not a significant exporter of the goods to Australia.¹⁰⁸ It highlights its lack of exports following CON 505 and its requirements for customers to meet minimum order quantities. Dragon Steel also submitted that it is unlikely to re-establish distribution links due to ordering single sizes per shipment.

The commission does not consider minimum order requirements are a significant barrier to Dragon Steel's exports resuming. The commission compared Dragon Steel's exports to Australia in REV 499 to other exporters of the goods. The analysis compared the volume per order number for Dragon Steel, Tung Ho, and Hyundai Steel. The commission's analysis showed that, on average, 16% of orders from Tung Ho and 3% of orders from Hyundai Steel were in quantities less than the minimum order quantity for Dragon Steel. The commission considers that the minimum order quantities may be a consideration when ordering. However, they do not appear to be a significant barrier to exporting when compared with other exporters of the goods. A majority of orders from other exporters were found to be above the minimum order quantity for Dragon Steel.

The commission also did not find that Dragon Steel's shipments were limited to a single size. Documentation provided by Dragon Steel in REV 499 shows that although there was only a single size per order, Dragon Steel's exports during that period consisted of multiple sizes, drawn from multiple orders.

¹⁰⁷ [ADRP Report No. 114](#), Quenched and Tempered Steel Plate exported from Finland, Japan and Sweden, para [28].

¹⁰⁸ [EPR 637](#), nos 13 and 20.

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The commission's analysis indicates that Dragon Steel's export process is similar to other large exporters of the goods. Accordingly, the commission does not consider that the evidence supports Dragon Steel's submission that its export requirements are a significant barrier to resuming exports to Australia.

Dragon Steel has been able to establish new distribution links and export to Australia. The minimum order requirements also increase the likelihood that the volumes exported by Dragon Steel will be injurious to the Australian industry.

In its submission of 26 August 2024, Liberty Primary submitted that minimum order quantities are standard across all rolling mills.¹⁰⁹ This is based on the economics involved in ensuring that rollers are being sufficiently utilised based on the cost to manufacture them. The commission considers that its analysis is supported by Liberty Primary's submission. There does not appear to be a substantial difference in the order quantities between Dragon Steel's historical exports and other exporters of the goods in REV 499. The commission considers that the minimum order quantities referred to by Dragon Steel are a common consideration amongst all exporters of the goods.

The commission's assessment of historical import volumes is at **Confidential Attachment 17**.

Price effects

Dragon Steel submitted that because there were no subject imports from Taiwan during the period, 'it must be concluded that price suppression and depression was caused by factors other than subject imports from Taiwan.'¹¹⁰

As discussed above in this section (7.7.4), it is the commission's view that if Dragon Steel resumes exporting to Australia, it will undercut Tung Ho's prices to gain market share and will struggle to compete with other Taiwanese exporters without dumping.

Because of Liberty Primary's IPP model, any competitive pricing that establishes itself in the market will become a direct competitor of the Australian industry. This will likely lead to a recurrence of material injury from Dragon Steel.

Other relevant factors

Dragon Steel claims that it will focus primarily on its domestic market due to strong demand.¹¹¹ It highlighted that it has secured several local projects, driven by increased growth in the construction industry. It further submits that, based on domestic industry data, domestic steel production is insufficient to meet the local market demand. Dragon Steel submits that these factors demonstrate that it will not be a significant exporter to Australia.

¹⁰⁹ [EPR 637](#), no 22, pp 7-8.

¹¹⁰ [EPR 637](#), no 13, p 3.

¹¹¹ [EPR 637](#), no 13, pp 4-5.

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As outlined in section 7.5.3, Dragon Steel had significant excess production capacity during the inquiry period. The commission considers that this indicates Dragon Steel can export to Australia while supplying domestic demand.

In its submission of 15 August 2024, Liberty Primary submitted that ‘contemporary steel industry reports [suggest] deteriorating conditions in domestic steel markets in Taiwan.’ The commission considers that this weakening in demand and increased competition from Chinese exports provides Dragon Steel with further incentive to export to Australia if the measures expire.

7.7.5 Thailand

As outlined in section 6.3.4, the commission considers that exports to Australia from Thailand were likely dumped during the inquiry period.

The commission identified changes in behaviour of Thai exporters in response to the measures. The analysis showed that Thai exporters increased exports to New Zealand in response to Australian measures. The analysis also showed opportunistic exports from Thailand to Australia during the review period for REV 499, and more recently due to stalling conditions in the New Zealand market.

The commission considers that, if the measures expire, Thai exporters will seek to gain a price advantage by dumping, which will place downward pressure on Liberty Primary’s prices. This will likely result in price depression and/or suppression should Liberty Primary seeks to match the lower priced offers. If Liberty Primary is unable or unwilling to meet the price of dumped goods it will likely lose sales volumes and market share to the lower priced dumped exports.

In addition, the commission’s analysis in section 7.5.3 indicates that there is likely significant excess capacity for steelmaking in Thailand. The commission considers that the price advantage gained from the expiry of measures, coupled with the ability to direct excess capacity towards Australia, means that injury caused by dumped exports from Thailand is likely to be material.

In consideration of the above analysis and other injury factors in respect of Thailand, the commission considers that it is likely that material injury will continue or recur from Thai exporters if the measures expire.

The commission’s comparison of Thai exports to Australia and New Zealand is at **Confidential Attachment 14**.

7.7.6 Other injury factors

Recent issues at Whyalla Steelworks

In March 2024 the blast furnace at Liberty Primary's Whyalla Steelworks suffered an uncontrolled breakout of iron which damaged the furnace's external shell causing production to shut down. Steelworks production has now resumed following rectification operations.¹¹² The commission considers that the shutdown was a temporary event, leading to short term effects on Liberty Primary's economic condition. Now that production has resumed, the shutdown has limited effect on the commission's consideration of whether the measures should be continued.

In its submission of 17 June 2024, Southern Steel Group (SSG) claims that the flow-on effects of the shutdown mean it is reasonable for the dumping duties to remain at their current rates.¹¹³

SSG submitted that there has been an increase in imports of the goods as customers look to secure supply considering the production issues currently experienced by the Whyalla Steelworks. SSG claims that a potential increase in the current rates of duty would adversely impact importers of the goods who have limited choice other than to import the goods.

The commission's inquiry is concerned with whether the continuation or recurrence of dumped exports will cause material injury to the Australian industry. The commission has considered the effects of the production shutdown in relation to that test.

In its submission of 2 July 2024, Liberty Primary responded to the claims in SSG's submission of 17 June 2024.¹¹⁴

Liberty Primary submitted that based on its contingency plans, it has continued to supply the Australian market with HRSS during the production outage. Liberty Primary further claims that there is no evidence of any increase in imports of the goods since mid-March 2024 and that imports have decreased in the Jun-24 quarter.

¹¹² A Ganesan and A Francis, '[Whyalla steelmaking resumes after shutdown caused months of uncertainty for workers](#)', *ABC News (Australia)*, 8 July 2024, accessed 8 July 2024.

¹¹³ [EPR 637](#), no 12.

¹¹⁴ [EPR 637](#), no 15.

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The commission has examined ABF import data and found that imports from all sources have decreased recently (Figure 21). The commission considers that this supports Liberty Primary's assertion that there has been limited disruption to the Australian HRSS market due to the issues at Whyalla Steelworks.

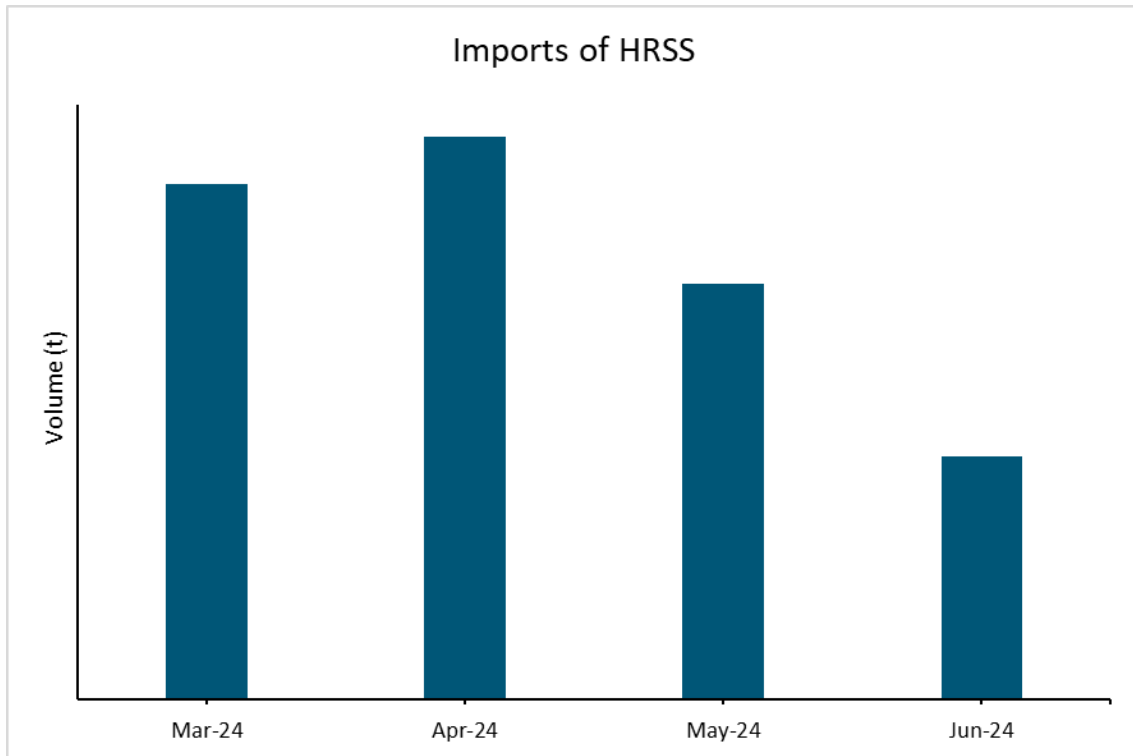


Figure 21: Import volumes following Whyalla Steelworks outage

Both SSG and Liberty Primary also referenced the plans for the Whyalla Steelworks to transition from using a blast furnace to an electric arc furnace for producing steel.

In its submission, SSG highlighted that uncertainty around the transition is a factor causing customers to seek alternative supply arrangements.¹¹⁵ This transition was expected to be completed in 2025 but has now been delayed until 2027.¹¹⁶ Liberty Primary contested that for the transition to succeed, 'then sales of the like goods at prices unaffected by dumping is critical to the business case.'¹¹⁷

The commission considers that any delays to improving the efficiency of Liberty Primary's HRSS production will further increase the vulnerability to injury from dumped imports.

¹¹⁵ [EPR 637](#), no 12, pp 1-2.

¹¹⁶ H Biggs and R McClaren, '[Energy minister travels to Italy as Whyalla steelworks owners flag further delays](#)', *ABC News (Australia)*, 16 May 2024, accessed 21 May 2024.

¹¹⁷ [EPR 637](#), no 15, p 3.

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Imports from exporters not subject to measures

As outlined in sections 7.5.1 and 7.6.4, there are significant volumes of imports from Taiwanese exporters not subject to measures which are competitively priced. The commission considers that these imports are a potential source of injury to Liberty Primary. The commission considers that the market presence of exporters not subject to measures from Taiwan will incentivise exporters subject to measures to reduce prices to dumped levels to compete if the measures expire.

While Liberty Primary may be vulnerable to the injurious effects of imports from Taiwan that are not subject to measures, it does not detract from the commission's conclusion that, if the measures expire, dumped exports from Taiwanese exporters currently subject to the measures would likely cause a continuation or recurrence of material injury to Liberty Primary.

8 VARIABLE FACTORS – EXPORT PRICE AND NORMAL VALUE

8.1 Recommendation

The Commissioner recommends ascertaining new variable factors relevant to Hyundai Steel from the ROK.

The Commissioner recommends that the notice remain unaltered for:

- all exporters from Japan
- all other exporters from the ROK
- all exporters from Taiwan
- all exporters from Thailand.

8.2 Framework

Under section 269ZHF, the Commissioner must make a recommendation to the Minister. This includes whether the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.¹¹⁸

The variable factors referenced under section 269ZHF(1)(a)(iii) relevant to a dumping duty notice are specified in section 269T(4D)(a) as:

- the normal value of the goods
- the export price of the goods
- the NIP of the goods.

In SEF 637 it was noted that the commission's consideration is not affected by the fact that some exporters exported the goods during the inquiry period, or the fact that the commission assessed dumping for some exporters as part of the inquiry. To clarify, the commission's consideration of whether to update variable factors is not *solely* affected by, relevantly, the fact that some exporters exported the goods during the inquiry period as this constitutes one of various considerations.

When determining whether new variable factors should be ascertained in a continuation inquiry, the commission will consider the information before it, including responses to exporter questionnaires. As noted in the paragraph above, the presence or absence of exports during the inquiry period is another relevant factor as to whether new variable factors are ascertained.

Where an individual exporter considers that there is a basis for reconsideration of the variable factors which apply to them, the legislative framework provides for a process of a review of measures under Division 5 or an accelerated review for a new exporter under Division 6.

¹¹⁸ Section 269ZHF(1)(a)(iii).

8.3 Commission's approach

As outlined in section 6.3.1, the commission conducted an on-site verification of the information in Hyundai Steel's REQ. Based on the information provided, the commission considers that it has sufficient information to ascertain new variable factors for Hyundai Steel.

Dragon Steel provided a completed REQ, however, the commission did not conduct a verification as Dragon Steel had not exported during the inquiry period. As outlined in section 6.3.2, the commission has not altered the notice in so far as it relates to Dragon Steel in the absence of evidence of an export price during the inquiry period.

The commission did not receive any REQs or other relevant information from any exporter from Japan or Thailand.

The commission notes that no interested party has provided evidence to suggest that the commission alter the notice in so far as it relates to exports from Japan, Taiwan and Thailand.

Submissions received regarding changes in export price and normal value

In its submission of 15 August 2024, Liberty Primary submitted that there is sufficient information for the commission to ascertain new variable factors for all exports from the subject countries.¹¹⁹

As outlined in section 8.2, in determining whether it is appropriate to recommend a change to the variable factors, the commission will consider the information furnished by subject exporters of the goods.

In this inquiry, the commission did not receive responses to the exporter questionnaire from Japanese or Thai exporters. The commission did not consider it appropriate to revise the variable factors for exports from Japan and Thailand for this continuation inquiry.

The commission did receive a completed REQ from Dragon Steel and the commission reviewed the information contained in it. However, Dragon Steel did not export to Australia during the inquiry period. There are limitations in determining an export price in the absence of exports. The commission notes that these limitations are explicitly considered as part of a review of measures under Division 5. The commission did not consider it appropriate to revise the variable factors for Dragon Steel for this continuation inquiry.

¹¹⁹ [EPR 637](#), no 19, pp 2-3.

PUBLIC RECORD

The commission considers that the Dumping Duty Notice (ADN 2019/125)¹²⁰ in REV 499 remains reliable evidence to support the levels of dumping for Dragon Steel, and for Japanese and Thai exporters also, and consequently the commission has not altered the variable factors for these exporters during this inquiry.

The commission received a completed REQ from Hyundai Steel and verified this information. The commission considers that it is appropriate to revise the variable factors for Hyundai Steel for this continuation inquiry.

The commission further notes that there is no legislative requirement that it must ascertain new variable factors as part of a continuation inquiry pursuant to Division 6A.

The commission also notes that REV 642 will examine the variable factors relevant to the measures. Division 5 provides the procedures and requirements as to how the commission variable factors must be ascertained.

¹²⁰ [EPR 499](#), no 69.

9 VARIABLE FACTOR - NON-INJURIOUS PRICE

9.1 Finding

Having regard to the available information, the commission has determined that the NIP has changed for Hyundai Steel.

The commission calculated that the NIP is higher than the normal value established for Hyundai Steel. Therefore, the lesser duty rule does not apply.

The commission has not ascertained the NIP for all exporters from Japan, all other exporters from ROK, all exporters from Taiwan, and all exporters from Thailand.

9.2 Framework

9.2.1 The NIP

The NIP is defined in section 269TACA as the minimum price necessary to prevent the injury or a recurrence of the injury caused by the dumping. The NIP is a variable factor relevant to determining duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).

The legislation does not prescribe a calculation method for the NIP. The commission generally derives the NIP by first establishing the USP. The USP is a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. The commission will then deduct the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia from the USP. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

The unsuppressed selling price

The Manual provides a hierarchy of options for establishing a USP:¹²¹

- the Australian industry's price or market approach in a period unaffected by dumping
- the constructed approach, using the Australian industry's CTMS data and a reasonable amount for profit
- the price or market approach for undumped imports.

9.2.2 The lesser duty rule

Where the Minister is required to determine the IDD payable, section 8(5B) of the Dumping Duty Act applies.

¹²¹ [The Manual](#), pp 106-109.

PUBLIC RECORD

Under section 8(5B) of the Dumping Duty Act, where the NIP of the goods is less than the normal value of the goods, the Minister must have regard to the desirability of specifying a method such that the sum of the export price and the IDD payable does not exceed the NIP ('lesser duty rule').

Under section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule if:

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii), or
- there is an Australian industry in respect of like goods that consists of at least 2 small-medium enterprises, whether or not that industry consists of other enterprises.

Where any of the above exceptions apply, the Minister's consideration of the lesser duty rule is not mandatory, but the Minister may still wish to exercise their discretion to consider the desirability of the lesser duty rule.

9.3 Commission's approach and findings

9.3.1 Finding

The commission has calculated the USP using the constructed approach. The commission has found that the resulting NIP is higher than the normal value for Hyundai Steel. Accordingly, the lesser duty rule does not apply.

9.3.2 Approach in the original investigation and past cases

In the original investigation, the commission determined that the NIP should be set equal to the normal value for each exporter. This approach was also taken in REV 499.

The commission re-examined the NIP calculated in REV 499 as part of *ADRP Review No. 120*.¹²² The commission found that the circumstances that existed at the time of the original investigation were no longer applicable. This was because Tung Ho was no longer subject to the measures as it was found not to be dumping. The commission examined whether Tung Ho's undumped prices were suitable to use as the USP. The commission found that Tung Ho's undumped prices were not suitable to establish the USP, as those prices were still affected by the presence of dumped exports in the Australian market. Instead, the commission established a USP having regard to the Australian industry's CTMS. The commission did not include an amount for profit as the Australian industry had not been profitable for some time. The commission then deducted amounts for importer SG&A and profit, and post-importation costs to arrive at the NIP.

¹²² [ADRP Report No. 120](#), pp. 42-49.

PUBLIC RECORD

The commission found that the NIP was higher than the normal value for all exporters from ROK, Taiwan, and Thailand.¹²³

9.3.3 Commissioner's assessment of NIP and USP for this inquiry

For this inquiry the commission has calculated a revised NIP for Hyundai Steel by having regard to:

- the USP, calculated by the constructed method
- verified post-exportation costs for Hyundai Steel from this inquiry
- verified post-importation costs from REV 499
- verified importer SG&A and profit from REV 499.

Unsuppressed selling price

The commission has used the constructed method outlined in the Manual to establish the USP. The commission has used Liberty Primary's CTMS for the inquiry period, with an amount for profit.

In its submission of 15 August 2024, Hyundai Steel submitted that a zero amount for profit should be used in the calculation of the USP.¹²⁴ It is Hyundai Steel's view that the profit achieved by Liberty Primary was not representative of its actual economic condition and reflects an unsustainable amount.

The commission examined whether using a zero amount for profit would alter the implementation of the lesser duty rule and found that it made no difference.

In this circumstance, the commission considers that the profit achieved by Liberty Primary in year ending September 2022 is reasonable, despite any favourable trading conditions, noting that is a weighted average amount over a 12-month period. In assessing the reasonableness of the profit from its sales of HRSS, the commission had regard to Liberty Primary's total company profit for FY2023.

The Manual outlines situations where the commission may not use a constructed USP:¹²⁵

- Where a reasonable rate for historical profit could not be established.
- If the industry CTMS data is unreliable for a constructed approach.
- Where the resulting level of the USP is unreasonable.

¹²³ Exports from Japan were not examined as Japan was not covered by the reinvestigation request. The NIP for exports from Japan remained equal to the normal value.

¹²⁴ EPR 637, no 21, p 4.

¹²⁵ The Manual, p 107.

PUBLIC RECORD

The commission does not consider that any of these conditions have been met because:

- the amount of profit Liberty Primary achieved in year ending September 2022 was not unreasonable, as described above in this section
- Liberty Primary's CTMS was verified and found reliable for the inquiry period
- the resulting USP is based on verified CTMS data plus a reasonable amount for profit, representing a reasonable price Liberty Primary could achieve in the absence of dumping.

Deductions to arrive at the NIP

To arrive at the NIP, the commission has deducted verified post-exportation costs for Hyundai Steel from this inquiry, and post-importation costs and importer SG&A and profit from REV 499.

As noted in section 2.4.1 the commission did not receive any responses to importer questionnaires. Accordingly, the commission does not have verified information on contemporary post-importation costs and importer SG&A and profit that would be relevant for the calculation of the NIP.

In this circumstance, the commission considers that the best available information is the verified post-importation costs and importer SG&A and profit from REV 499.

In its submission of 15 August 2024, Hyundai Steel submitted that the deductions to the USP to arrive at the NIP should include the verified post-exportation expenses for Hyundai Steel.¹²⁶ These expenses include ocean freight, marine insurance, and customs charges.

Upon re-examination of the NIP calculation, the commission agrees with Hyundai Steel's submission. The commission has revised the calculation of the NIP to include a deduction for the verified post-exportation costs incurred by Hyundai Steel.

The commission has found that the NIP remains higher than the normal value for Hyundai Steel.

The commission's calculation of the USP and NIP is contained in **Confidential Attachment 15**.

9.3.4 Application of the lesser duty rule

As the NIP is higher than the normal value for Hyundai Steel, the lesser duty rule does not apply.

¹²⁶ [EPR 637](#), no 21, pp 4-5.

10 DUTY METHOD

10.1 Findings and recommendations

The Commissioner has found that the variable factors relevant to the determination of IDD on the goods exported by Hyundai Steel have changed. The Commissioner considers the IDD payable on the goods exported from Hyundai Steel should be worked out using the *ad valorem* duty method, which is different to the current duty method (the combination fixed and variable duty method).

The Commissioner is not proposing to alter duty methods applicable to all exporters from Japan, all other exporters from the ROK, all exporters from Taiwan, and all exporters from Thailand. As outlined in chapter 8, this is because the commission does not have verified information that would be relevant for the determination of the variable factors for those exporters. The commission also notes that REV 642 will examine the variable factors relevant to the measures. Division 5 provides the procedures and requirements as to how the commission variable factors must be ascertained.

10.2 Framework

The *Customs Tariff (Anti-Dumping) Regulation 2013* (the Tariff Regulation) prescribes the duty methods available to the Minister for working out IDD payable. The duty methods are:

- fixed duty method (\$X per tonne)
- floor price duty method
- combination fixed and variable duty method
- *ad valorem* duty method – that is, a percentage of the export price.

The various duty methods all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain duty methods will better suit the circumstances than others. More detail on the nature and operation of the various duty methods are contained in the *Guidelines on the Application of Forms of Dumping Duty November 2013* (the guidelines).¹²⁷

¹²⁷ Available [here](#) on the commission's website.

10.3 Duty methods and effective rates of duty

The current and recommended duty methods and measures are outlined in Table 17.

Country	Exporter	Current measures	Recommended measures
Japan	All exporters	12.2% Combination	No change
ROK	Hyundai Steel	4.7% Combination	5.2% <i>ad valorem</i>
	All other exporters	7.9% Combination	No change
Taiwan	Dragon Steel	9.0% Combination	No change
	All other exporters ¹²⁸	12.3% Combination	No change
Thailand	Siam Yamato Steel Co Ltd	7.8% Combination	No change
	All other exporters	7.7% Combination	No change

Table 17: Current and recommended duty methods and measures

Hyundai Steel

The commission preliminarily recommended in the SEF that the combination duty method apply to Hyundai Steel’s exports of the goods. Following consideration of submissions to the SEF, the commission considers that the combination duty method is not preferable for Hyundai Steel. Instead, the commission considers that the *ad valorem* duty method is the most appropriate duty method for Hyundai Steel.

In its submission of 15 August 2024, Hyundai Steel submitted that the *ad valorem* duty method is the most appropriate.¹²⁹ In support of this position, Hyundai Steel provided the following reasons:

- The Australian market for HRSS is not rising and is likely to fall following the specific expiry date.
- Not updating the variable factors (specifically the floor price component of the combination method) for other exporters leaves Hyundai Steel at an undue disadvantage.

¹²⁸ Excluding Feng Hsin Steel Co Ltd, TS Steel Co Ltd and Tung Ho Steel Enterprise Corporation, whose exports are not subject to the measures.

¹²⁹ [EPR 637](#), no 21.

PUBLIC RECORD

- Hyundai Steel’s duty assessment results over the past 5 years mean that it has been paying an effective *ad valorem* rate of duty.

In its submission of 26 August 2024, Liberty Primary responded to Hyundai Steel and submitted that:¹³⁰

- the primary consideration is that the measures remain effective
- Hyundai Steel’s dumping margin has previously increased when the *ad valorem* method was in place
- Hyundai Steel’s experience with the Australian anti-dumping system means it has high visibility of any potential duty amounts
- the combination duty method cannot be punitive under any circumstance for commodity products
- the duty assessment process provides the ability to refund any duty exceeding the actual level of dumping.

In the SEF, the commission considered that the same circumstances existed for Hyundai Steel as did previously in REV 499. Those circumstances were:

- There are not significant differences in prices between models.
- The Australian HRSS market can presently be considered a rising market.

The commission based these findings on an examination of Liberty Primary’s selling prices (Figure 5) and an assessment of ABF import prices. The commission considered that the Australian market for HRSS was a rising market during the inquiry period.

Upon further examination, the commission has found that import prices from Korea, and in general, have begun to decrease following the end of the inquiry period (Table 18). As noted in the guidelines, the combination duty method may result in the collection of IDD in excess of the amount required to remedy the injurious effects of dumping in a circumstance where market prices are falling.¹³¹ This is because the dumping export price falls below the floor price component due to the falling prices in the market, and not because of dumping. This has the potential to collect excess amounts of IDD, regardless of the actual margin of dumping. This was also highlighted by Hyundai Steel in its submission of 30 August 2024.¹³²

Source	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24
ROK	100	101	97	92	86
All imports	100	99	94	89	79

Table 18: Index of import prices following inquiry period

¹³⁰ [EPR 637](#), no 22, pp 5-7.

¹³¹ DISR, '[Guidelines on the application of forms of dumping duty](#)', Anti-Dumping Commission, Australian Government, 2013, p 6.

¹³² [EPR 637](#), no 23, p 4.

PUBLIC RECORD

The commission's assessment of ABF import prices following the inquiry period is at **Confidential Attachment 16**.

In its submission of 26 August 2024, Liberty Primary submitted that the combination method is not punitive under any circumstance. It submitted that in a falling market, the duty assessment process ensures that any excess IDD is repaid.¹³³ Liberty Primary also highlighted the increase in Hyundai Steel's dumping margin between INV 223 (2.52%) and REV 465 (9.90%) as a supporting reason why the combination method is the most appropriate. Liberty Primary submits that the combination method captures this situation when the exporter increases its margin of dumping, compared to the *ad valorem* method which would continue to only apply a fixed component.

The commission considers that this was a relevant circumstance when Hyundai Steel exported to Australia at FOB terms. In that circumstance, Hyundai Steel may have had an incentive to lower its prices to counter the effects of duty. However, Hyundai Steel now exports to Australia at DDP terms, meaning that it is the one that pays the IDD and thus can benefit from a duty refund.

In its submission of 30 August 2024, Hyundai Steel also raised its use of the duty assessment process.¹³⁴ It submitted that its use of advisory services and the duty refund system supports a finding that it is incentivised to minimise the amount of dumping in order to maximise its refund amount.

The commission notes that the final duty payable by Hyundai Steel in recent duty assessments has been lower than the interim duty collected.¹³⁵ This suggests that it is unlikely that Hyundai Steel would lower its prices to avoid the intended effects of the duty. Further, given that Hyundai Steel is itself the importer, it is in Hyundai Steel's interest to maintain its export prices such that it receives the largest duty refund possible. This is a different circumstance to REV 465, when Hyundai Steel's duty method was first changed to the combination duty method. At that time Hyundai Steel was not the importer of the goods.

Other key considerations of the combination duty method, such as the arms length nature of sales or company structure are not currently an issue. Non-arms length sales or complex company structures could indicate that circumvention activity through price manipulation is likely. These are reasons that support the use of a combination duty method.

The commission found that Hyundai Steel's export sales to Australia were arms length. Hyundai Steel directly exports the goods to its Australian customers without the involvement of other related parties. The commission considers that this indicates that Hyundai Steel does not have a complex business structure and circumvention of the measures is not likely.

¹³³ [EPR 637](#), no 22, p 7.

¹³⁴ [EPR 637](#), no 21, p 4, no 22, p 7 and no 23, pp 4-5.

¹³⁵ [EPR 637](#), no 18, p 3.

PUBLIC RECORD

The commission considers that the advantages of an *ad valorem* duty method which includes simplicity outweigh the disadvantages of a combination duty method. The commission also considers that the duty method may be revisited in REV 642 if appropriate.

The Commissioner is satisfied that the *ad valorem* method is the most appropriate duty method for Hyundai Steel.

11 RECOMMENDATIONS

11.1 Findings

The Commissioner is satisfied that the expiry of the measures on HRSS exported to Australia from the subject countries would be likely to lead to a continuation or recurrence of dumping and the material injury that the measures are intended to prevent.

The Commissioner recommends that the notice have effect into relation to Hyundai Steel as if different variable factors had been ascertained.¹³⁶

The Commissioner recommends that the notice remains unaltered in relation to all exporters from Japan, all exporters other than Hyundai Steel from the ROK, all exporters from Taiwan, and all exporters from Thailand.¹³⁷

11.2 Recommendations

The Commissioner recommends that the Minister **declare** in accordance with section 269ZHG(1)(b) that they have decided to secure the continuation of the measures from Japan, the ROK, Taiwan and Thailand.

The Commissioner recommends that the Minister **determine**:

- Pursuant to section 269ZHG(4)(a)(i) that the dumping duty notice continues in force after 20 November 2024 for exporters from Japan, the ROK (except for Hyundai Steel), Taiwan¹³⁸, and Thailand
- Pursuant to section 269ZHG(4)(a)(iii) that the notice continues in force after 20 November 2024, but that, after that day, the notice has effect in relation to Hyundai Steel, as if the Minister had fixed different specified variable factors as set out in **Confidential Attachments 5, 7 and 15** in relation to Hyundai Steel
- Pursuant to section 269TAAD(4), and for the purpose of working the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arms length transactions are taken to have been in the ordinary course of trade, that the amounts for the cost of production or manufacture of the goods produced by Hyundai Steel and the SG&A costs associated with the sale of those goods are as set out in **Confidential Attachment 6**
- Pursuant to section 269TAB(1)(c), having regard to all the circumstances of the exportation of the goods from Hyundai Steel to Australia, that the export price is as set out in **Confidential Attachment 5**

¹³⁶ Section 269ZHF(1)(a)(iii).

¹³⁷ Section 269ZHF(1)(a)(i).

¹³⁸ Except for Feng Hsin, TS Steel and Tung Ho.

PUBLIC RECORD

- Pursuant to section 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in the ROK in sales that are arms length transactions that the normal value of the goods exported to Australia from Hyundai Steel is the price paid or payable for like goods as set out in **Confidential Attachment 7**
- section 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of the goods exported to Australia from Hyundai Steel is an amount which will be worked out in accordance with the *ad valorem* method pursuant to section 5(7) of the Tariff Regulation.

The Commissioner recommends the Minister **direct** in accordance with section 269TAC(8), that, as the normal value of the goods exported to Australia is the price paid or payable for like goods sold in the ROK, the normal value be adjusted for specified differences between like goods sold in the ROK and export sales, as set out in **Confidential Attachment 7**.

12 APPENDICES AND ATTACHMENTS

Non-Confidential Attachment 1	Hyundai Steel product brochure
Confidential Attachment 1	Australian market
Confidential Attachment 2	Economic condition of Australian industry
Confidential Attachment 3	Dumping assessment for Japan and Thailand
Confidential Attachment 4	Assessment of imports
Confidential Attachment 5	Hyundai Steel export price
Confidential Attachment 6	Hyundai Steel CTMS
Confidential Attachment 7	Hyundai Steel normal value
Confidential Attachment 8	Hyundai Steel dumping margin
Confidential Attachment 9	Dragon Steel CTMS
Confidential Attachment 10	Dragon Steel normal value
Confidential Attachment 11	Assessment of dumping from Taiwan
Confidential Attachment 12	Steel market intelligence
Confidential Attachment 13	Injury data
Confidential Attachment 14	Comparison of Thai exports to AU and NZ
Confidential Attachment 15	USP and NIP calculation
Confidential Attachment 16	Import prices following inquiry period
Confidential Attachment 17	Assessment of historical imports