

PUBLIC FILE VERSION



Australian Government
Anti-Dumping Commission

Application for an
anti-circumvention inquiry into
avoidance of the intended effect of duty
of steel reinforcing bar
exported from the Republic of Korea

October 2017

APPLICATION UNDER SECTION 269ZDBC OF THE *CUSTOMS ACT 1901* FOR AN ANTI-CIRCUMVENTION INQUIRY INTO AVOIDANCE OF THE INTENDED EFFECT OF DUTY

In accordance with subsection 269ZDBC(1A) of the *Customs Act 1901* (Act), I request that the Anti-Dumping Commissioner conduct an anti-circumvention inquiry in relation to a notice published under subsections 269TG(2) or 269TJ(2) of the Act, in respect of the goods the subject of that notice.

I consider that there are reasonable grounds to assert that circumvention activity has occurred that is avoiding the intended effect of duty.

This application is made by a person representing, or representing a portion of, the Australian industry producing like goods, which considers that the circumvention activity in relation to the notice has occurred.

I consider that it may be appropriate to alter the notice because of the circumvention activity.

I confirm that:

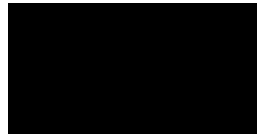
- This application does not describe any other kind of circumvention activity in relation to the notice detailed above; and
- I have not made an application, which has resulted in an anti-circumvention inquiry into avoidance of the intended effect of duty, in respect of the notice detailed above, within the previous 12 month period from the date of this application.

DECLARATION

I believe that the information contained in this application:

- provides reasonable grounds for the conduct of an anti-circumvention inquiry; and
- is complete and correct to the best of my knowledge and belief.

Signature:



Name:



Position:

Manager Trade Development

Company:

OneSteel Manufacturing Pty Ltd (trading as "Liberty OneSteel")

ABN:

42 004 651 325

Date:

27 October 2017

About this form

Subsection 269ZDBD(1)(b) of the Act requires that an application under subsection 269ZDBC(1) of the Act for an anti-circumvention inquiry into the avoidance of the attended effect of duty must be in a form approved by the Commissioner for those purposes. This is the approved form.

Signature requirements

Where the application is made:

- *By a company:* the application must be signed by a director, servant or agent acting with the authority of the body corporate.
- *By a joint venture:* a director, servant, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.
- On behalf of a trust: a trustee of the trust must sign the application.
- By a sole trader: the sole trader must sign the application.
- In any other case: contact the Anti-Dumping Commission's Client Engagement and Business Support Section for advice.

Assistance with the application

The Anti-Dumping Commission has published guidelines to assist applicants with the completion of this application. Please refer to the *'Instructions and Guidelines for applicants: Application for an anti-circumvention inquiry into avoidance of the intended effect of duty'* on the Commission's website.

The Commission's Client Engagement and Business Support Section can also provide information about dumping and countervailing procedures and the information required by the application form. Contact the Section on:

Phone: 1300 884 159

Fax: 1300 882 506

Email: clientsupport@adcommission.gov.au

Other information is available from the Commission website at www.adcommission.gov.au.

Small and medium enterprises (i.e., those with up to 200 employees) may obtain assistance, at no charge, from the International Trade Remedies Advisor, employed by Australian Industry Group and funded by the Australian government. To access this service, visit www.aigroup.com.au/traderemedies or telephone (03) 9867 0267.

Required information

1. Provide details of the name, street and postal address, of the applicant seeking the inquiry.

Name:

OneSteel Manufacturing Pty Ltd (trading as "Liberty OneSteel") (**Liberty OneSteel**)

Street address:

Level 6, 205 Pacific Highway
ST LEONARDS NSW 2065

Postal address:

LOCKED BAG 3050
ARTARMON NSW 1570

2. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address.

Contact Name:

[REDACTED]

Position:

[REDACTED]

Telephone:

[REDACTED]

Facsimile:

[REDACTED]

E-mail address:

[REDACTED]

3. Provide known names, addresses, telephone and facsimile numbers of other parties likely to have an interest in this matter, e.g., Australian manufacturers, importers, exporters and end users.

Australian manufacturers:

Liberty OneSteel is the sole Australian manufacturer of steel reinforcing bar.

Exporter:

Name:

DAEHAN STEEL CO., LTD

Address:

[REDACTED]

[REDACTED]

Telephone:

[REDACTED]

Facsimile:

[REDACTED]

Importer:

Name:

STEMCOR AUSTRALIA PTY LTD

Address:

[REDACTED]

[REDACTED]

[REDACTED]

Telephone:

[REDACTED]

Facsimile:

[REDACTED]

4. Provide a description of the kind of goods that are the subject of the original notice.

The goods the subject of the original notice application are:

“Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.

“The goods covered by this application include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating.

“Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.”

5. Provide a description of the original notice, including:

- whether the notice was a dumping and/or countervailing notice;

The original notice was published under subsection 269TG(2) of the *Customs Act 1901 (the Act)*, in respect of the goods the subject of that notice.

- the tariff classification/s of the goods;

The goods are classified to the tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* specified below:

- 7214.20.00 (statistical code 47);
- 7228.30.90 (statistical code 49
(as of 1 July 2015, statistical code 40));
- 7213.10.00 (statistical code 42);
- 7227.90.90 (statistical code 42
(as of 1 January 2015 statistical codes 02 and 04)); and
- 7227.90.10 (statistical code 69.

- the countries and/or exporters covered by the notice; and

The original notice covered exporters from Korea, Singapore, Spain and Taiwan (except for Power Steel).

Following a review of the original decision by the *Anti-Dumping Review Panel*, the then Parliamentary Secretary to the Minister for Industry, Innovation and Science (**Parliamentary Secretary**), revoked the original decision with effect from 11 December 2015 and substituted it with another decision to publish a dumping duty notice in the same terms as the original notice but amended to exclude from the notice exports of the goods from Spain by Nervacero S.A..

- the date of publication of the notice.

The original notice was published on 19 November 2015, a copy is attached as NON-CONFIDENTIAL ATTACHMENT A.

6. Provide a detailed statement regarding the circumvention activity that you consider that has occurred and which is resulting in avoidance of the intended effect of duty in relation to the original notice. You must provide evidence to support your view that there are reasonable grounds for asserting that the circumvention activity has occurred that is avoiding the intended effect of duty in relation to the notice.

The circumvention activity

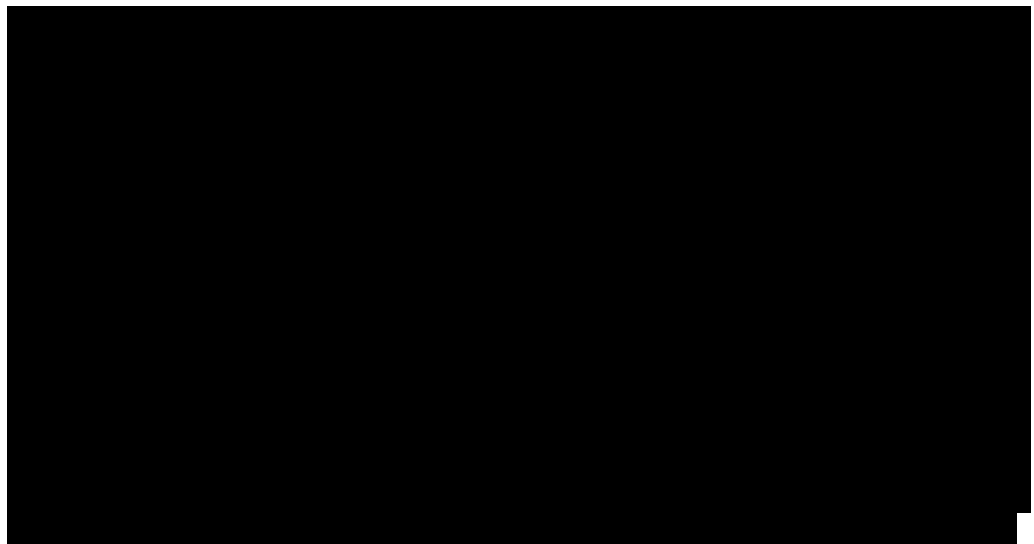
It is alleged that:

- (a) the circumvention goods were exported to Australia between 19 November 2015 and 18 November 2016 (**the circumvention period**);
- (b) the circumvention goods are manufactured in the Republic of Korea (**Korea**), a foreign country in respect of which the original notice applies;
- (c) the exporter of the circumvention goods is Daehan Steel Co., Ltd (**Daehan**) an exporter in respect of which the original notice applies;
- (d) the importer of the circumvention goods, Stemcor Australia Pty Ltd (**Stemcor**); whether directly or through an associate or associates; sells the circumvention goods in Australia without increasing the price commensurate with the total amount payable on the circumvention goods under the *Dumping Duty Act*;
- (e) since 19 November 2015, section 8 of the *Dumping Duty Act*, applies to the export of the circumvention goods to Australia; and
- (f) the above circumstances have occurred over a reasonable period, namely the *circumvention period*.

Evidence in support of the alleged circumvention activity

- (a) *the circumvention goods were exported to Australia between 19 November 2015 and 18 November 2016 (the circumvention period)*

CONFIDENTIAL FIGURE 1 (below) demonstrates the circumvention goods were exported to Australia in the circumvention period.



CONFIDENTIAL FIGURE 1: Export volumes of the goods from Korea since 1 June 2013 to 31 December 2016 (Source: [CONFIDENTIAL ATTACHMENT B](#))

(b) *the circumvention goods are manufactured in the Republic of Korea (Korea), a foreign country in respect of which the original notice applies*

CONFIDENTIAL ATTACHMENT B records the country of origin of the circumvention goods as Korean.

(c) *the exporter of the circumvention goods is Daehan, an exporter in respect of which the original notice applies*

Daehan is the sole producer of the circumvention goods in Korea certified by the Australian Certification Authority for Reinforcing and Structural Steels (**ACRS**).¹ Certification is strong *prima facie* evidence of the source of supply in the Australian market.

(d) *the importer of the circumvention goods, Stemcor, sells the circumvention goods in Australia without increasing the price commensurate with the total amount payable on the circumvention goods under the Dumping Duty Act;*

During the proposed circumvention period (19 November 2015 to 18 November 2016) the importer has sold the circumvention goods in Australia at an average FIS value of AUD ██████ /t. During the investigation period (1 July 2013 to 30 June 2014), the importer's average FIS value of goods sold in Australia was AUD ██████/t. This represents a decline in the FIS price of the goods in Australia of -17.4% between the original investigation period and proposed circumvention period.

Across the same period, the exporter decreased the weighted average FOB export price of the goods sold to Australia by ██████% (from a WAV export price of AUD ██████ t during the original investigation period to a WAV export price of AUD ██████/t during the circumvention period).

When compared to the decline in the domestic sales value of like goods - between the original investigation and the circumvention period - the exporter has decreased the export price of goods sold to Australia by almost the *ad valorem* rate of duty (i.e. 9.7%). Specifically, the average domestic sales price of like goods sold into the Korean domestic market declined by ██████% (between the original investigation period and circumvention period). In other words, the exporter decreased the export price by an additional 9.0% (when compared to prevailing market conditions) in order to circumvent the operation of the original notice.

Had the exporter not reduced its export price for the goods sold to Australia during the circumvention period by an additional 9.0% over and above the general decline in price, the exporter's FOB export price to Australia (inclusive of interim dumping duty (**IDD**) at the *ad valorem* rate of 9.7 per cent) ought to have been AUD ██████/t. However, by reason of the circumvention activity, the FOB export price to Australia (Inclusive of **IDD**) was in fact AUD ██████/t (inclusive of **IDD**).

The exporter's reduction in export price has in turn allowed the importer to sell the circumvention goods in Australia without increasing the price commensurate with the total amount payable on the circumvention goods. If not for the exporter's reduction in the export price, all things being equal, the importer's average FIS value of the goods sold into the Australian market ought to have been AUD ██████/t during the circumvention period - not the observed FIS value of AUD ██████/t. However, by sacrificing gross margin (by 16.72%), the importer was able to circumvent the measures by an even greater amount than the

¹ ACRS Certificate No. 121101 (for Manufacturers of Hot Rolled Bar in Coil to AS/NZS4671)

exporter's decline in export price. To demonstrate this, the Australian industry applicant has calculated a revised FIS Australian sale price of the circumvention goods that is commensurate with an export price that was not reduced by the exporter to circumvent the original notice, and continues to return to the importer the same gross margin (██████ %) during the circumvention period as it achieved during the original investigation period – in other words a price that does not reduce the importer's rate of profit (all things being equal).

TABLE 2 (below) outlines the Australian industry's calculation of the degree to which the importer has sold (during the circumvention period) the circumvention goods in Australia without increasing the price commensurate with the total amount payable on the circumvention goods under the *Dumping Duty Act*.

Original investigation period (1 July 2013 to 30 June 2014)	Proposed circumvention period (19 November 2015 to 18 November 2016)
AUD	AUD
Weighted average FOB export price \$ ██████	Weighted average FOB export price \$ ██████
Average FIS Stemcor price offers \$ ██████	Average FIS Stemcor price offers \$ ██████
% gross margin of FIS price offers ██████%	% gross margin of FIS price offers ██████%
Average EXW normal value \$ ██████	Average EXW normal value \$ ██████
Changes between original investigation period and proposed circumvention period	
Weighted average FOB export price	down ██████ %
Average FIS Stemcor price offers	down 17.4%
% gross margin of FIS price offers	down 16.72%
Average EXW normal value	down ██████ %
Calculation methodology of price commensurate with the total amount payable on the circumvention goods under the Dumping Duty Act	
1. Take weighted average FOB export price (<i>from original investigation period</i>)	\$ ██████
2. DOWNWARD ADJUSTMENT by % change in average EXW normal value	██████%
<i>EQUALS revised FOB export price (for proposed circumvention period)</i>	\$ ██████
3. ADD duty payable (at ad valorem % rate)	9.7%
<i>EQUALS revised (duty inclusive) export price (for circumvention period)</i>	\$ ██████
4. UPWARD ADJUSTMENT by % gross margin (achieved during investigation period)	██████%
EQUALS REVISED FIS STEMCOR PRICE OFFER (exclusive of circumvention)	\$ ██████
Circumvention value (AUD/t)	107.95

TABLE 2: Calculation methodology (Source: CONFIDENTIAL ATTACHMENT B)

(e) since 19 November 2015, section 8 of the *Dumping Duty Act*, applies to the export of the circumvention goods to Australia

Under subsection 269TG(2) of the Act the Parliamentary Secretary declared in the original notice that section 8 of the *Dumping Duty Act* applies to like goods that are exported to Australia after the date of publication of the original notice, being 19 November 2015. The circumvention goods meet the description of the

goods and like goods referred to therein.

(f) the above circumstances have occurred over a reasonable period, namely the circumvention period.

The circumvention activity described in this application occurred across each month of the twelve-month period comprising the circumvention period.

7. **Provide a description of the alterations to the original notice that you consider should be made.**

Liberty OneSteel considers that the alteration to the original notice should in relation to existing exporters that are the subject of the original notice — the specification of different variable factors, namely the export price ascertained in respect of Daehan.

In the event that the Commission makes an affirmative determination that Daehan is found to have committed a circumvention activity, Liberty OneSteel requests that the Commission impose the new measures from the date that the anti-circumvention inquiry is made public.

Please refer to the 'Instructions and Guidelines for applicants: Application for an anti-circumvention inquiry into avoidance of the intended effect of duty' for further information on completing questions 6 and 7.

Provision of data

Industry financial data must, wherever possible, be submitted in an electronic format.

- The data should be submitted on a media format compatible with Microsoft Windows.
- Microsoft Excel, or an Excel compatible format, is required.
- If the data cannot be presented electronically please contact the Commission's Client Engagement and Business Support Section for advice.

Lodgement of the application

This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by:

- preferably, email, using the email address clientsupport@adcommission.gov.au; or
- post to:

The Commissioner of the Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001; or
- facsimile, using the number (03) 8539 2499.

It may be possible to lodge an application in a manner not described above provided that the Commissioner's written approval is obtained.

**Public
Record**

During an inquiry all interested parties are given the opportunity to defend their interests, by making a submission. The Commission maintains a public record of the non-confidential versions of submissions made to the inquiry. The public record is available on the Commission's website at www.adcommission.gov.au.

At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application must be submitted. Please ensure each page of the application is clearly marked "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD". The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence, clearly showing the reasons for seeking the inquiry, or, if those reasons cannot be summarised, a statement of reasons why summarisation is not possible. If you cannot provide a non-confidential version, contact the Commission's Client Engagement and Business Support Section for advice.