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Director
Operations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Dear Director

Anti-circumvention inquiry – Steel reinforcing bars exported from Korea

This submission is made on behalf of Daehan Steel Co. Ltd (Daehan) in response to the Anti-Dumping Commission's (the Commission) exporter visit report, and the anti-circumvention allegations raised by OneSteel Limited.

1. Preliminary normal values

Daehan provides the following comments on various aspects of the visit team's report with respect to the calculation of normal value.

Adjustment - Export credit expenses

Daehan contends that it did not extend credit terms to [REDACTED] on its export sales and as such, no adjustment was required to the normal values to ensure proper comparison. As explained during the verification, the reported number of days between the date of commercial invoice and receipt of payment, simply reflects the number of days that the relevant financial institutions require to process and clear the funds subject to the terms of the agreed letter of credit.

Adjustment - Technical support services

The technical support services are directly related to the purchase of bar in coil by domestic customers that require support to [REDACTED]. Whilst these technical support expenses are not separately charged to the domestic customer, they are recovered by Daehan through their domestic pricing structure.

It is noted that the visit team's pricing analysis did not appear to show that technical support services were factored into the selling prices when comparing domestic sales to relevant customers. However, Daehan suggests that a proper comparison of selling prices which takes account of all the terms of sale such as the model sold, nature of sale ([REDACTED]),

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██████████, transportation and credit, would show that prices were affected by the additional technical support expenses.

It is also important to note that the Commission previously accepted this claim for adjustment in the original investigation, on the basis that the technical support expenses did affect price and did require adjustment to ensure proper comparison. Daehan requests the Commission to reconsider its analysis and amend its finding accordingly to ensure consistency with the original investigation by allowing a downward adjustment to normal value.

Adjustment - Lease expenses

Daehan wishes to clarify the claimed adjustment for lease expenses incurred by Daehan and the subsequent impact on price. For certain domestic customers of bar in coil, Daehan provides those customers with ██████████. Daehan incurs on-going ██████████ and ██████████ expense associated with this ██████████ and recovers these costs through the incremental increase in the selling prices of the bar in coil purchased by the relevant customers. Therefore, it is confirmed that the associated lease and ██████████ expenses are reflected in the domestic selling price.

As no such leasing expenses are incurred or reflected in the export prices to Australia, a downward adjustment to the normal value is required to ensure proper comparison.

Adjustment - Inventory carrying costs

Like the technical support services, inventory carrying costs were previously accepted by the Commission in the original investigation. The Commission was satisfied then that domestic sales were made from inventory, whilst export sales were made to order and arranged for shipment upon completion of production.

There has been no change to Daehan's practice of selling either domestic or export sales in the intervening period since the original investigation and no reason for the Commission to alter its position.

It is also important to clarify the Commission's understanding with respect to exported goods in the inventory ledger. As explained during the verification, Daehan will examine its production schedule and commence production of the exported goods based on the ██████████. Following rolling and coiling of the finished goods, they remain hot and require some time to properly cool before loading into the container and transporting to the nominated port.

During this short period of cooling, the finished goods are ██████████, even though the goods are not physically placed into inventory alongside the domestic finished products which are ready for sale, as cooling is part of Daehan's production process (refer to the attached chart). During this short cooling period, the goods are technically still in production until they are available for loading and delivery.

In terms of the impact on price, it is generally accepted by markets that a local price premium exists for holding and delivering products on a just-in-time basis. Given that all domestic sales by Daehan are made from inventory, it is unreasonable to expect that it could provide

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supporting documentation demonstrating the actual impact on prices for holding inventory of finished goods, when such costs are automatically reflected in the agreed selling prices.

Normal value for Model “██████████”

Daehan submits that normal values for domestic model “██████████” is required to be determined pursuant to subsection 269TAC(2)(c) of the Act, by constructing a normal value on the basis of costs of production of the exported goods, domestic selling, general and administrative expenses, and profit on domestic sales of like goods in the ordinary course of trade.

As Daehan did make domestic like sales of the exported model during the inquiry period (albeit at low volumes), the Commission should not then seek to determine a normal value using a surrogate domestic model. Instead, the Act requires normal value to be constructed. Daehan therefore requests the Commission to reconsider its preliminary finding and constructed a domestic selling price for model “██████████”.

2. Circumvention legislative framework

Section 269ZDBB of the *Customs Act 1901* (the Act) outlines the five activities which are considered to be circumvention activity for the purposes of Division 5A. These include:

1. assembly of exported parts in Australia;
2. assembly of exported parts in a third country;
3. export of goods through one or more third countries;
4. certain arrangements between exporters, and
5. avoidance of the intended effect of the duty.

Circumvention activity in the form of ‘avoidance of the intended effect of the duty’, occurs if the following apply:

- (a) goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies;
- (b) the exporter is an exporter in respect of which the notice applies;
- (c) either or both of sections 8 and 10 of the *Dumping Duty Act* apply to the export of the circumvention goods to Australia;
- (d) the importer of the circumvention goods, whether directly or through an associate or associates, sells those goods in Australia without increasing the price commensurate with the total amount of duty payable on the circumvention goods under the *Dumping Duty Act*;
- (e) the circumstances covered by paragraphs (a) to (d) occur over a reasonable period.

3. Avoidance of intended effect of duty

The replacement explanatory memorandum to the Customs Amendment (Anti-Dumping Measures) Bill 2013¹ describes the avoidance of intended effect of duty as:

51. The new circumvention activity, called “avoidance of intended effect of duty”, describes the situation where dumping or countervailing duty has been imposed and is being paid by the importer; however, the imposition of the duty has little or no effect as,

¹ para 5, page 15

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over a „reasonable period“, the price at which the goods are sold by the importer has not increased in line with the duty payable. A reasonable period may be different for different goods depending on the characteristics of the goods, the conditions of the market for the goods, and other relevant factors. The reasons for the effect of the duty being avoided may be because there has been a reduction in profit taken on the sale, or where the export price has been decreased post the imposition of measures.

52.An inquiry into the new circumvention activity is aimed at investigating the reasons why the price of the goods has not increased to a price that is commensurate with the total amount of duties payable. In particular, the inquiry seeks to address situations where the circumstances are occurring because the exporter has lowered the export price, where a party in the transaction is making sales at a loss, or where the importer is absorbing the duties.

53.If external factors, for example such as currency fluctuation, have caused the circumstance where the selling price of the importer has not increased in accordance with the duties, the circumvention activity will not be determined to have occurred. Further, recognising that profit reduction of itself is a legitimate business practice, an importer who is independent of the exporter, and who may be absorbing part of the duty but not making sales at a loss, will generally be considered as not engaging in the circumvention activity - unless the inquiry found, for example, evidence that the exporter was compensating in some form the reduction in profit allowing no, or limited, movement in the price of the goods.

54.In determining if circumvention activity has occurred, investigators will give due consideration to the characteristics of the goods concerned, the market conditions, the nature of the relationship between the importer and exporter, and reasonable levels of profit. After having such consideration, the Commissioner may consider that it is appropriate to recommend to the Minister that the notice not be altered, even when the circumvention activity may be occurring to a limited extent.

Therefore, circumvention in the form of avoidance of the intended effect of duty occurs when the ‘price at which the goods are sold by the importer has not increased in line with the duty payable.’ The explanatory memorandum notes that this may be due to:

- an importer absorbing the imposed dumping duty such that its selling prices are below the duty inclusive cost of importing the goods;
- an importer absorbing part of the imposed dumping duty and its selling prices remaining profitable, but the exporter compensates the importer for the absorbed duties;
- the exporter lowering its prices for reasons that cannot be explained by external factors.

Profitability of importer

First, it is important and relevant to note that the Commission has determined that selected sales of reinforcing bars by ██████████ during the inquiry period were profitable overall, and the company was profitable across the full range of sales imported during the inquiry period. This compares to the similar finding during the

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original investigation period where [REDACTED] sales of steel reinforcing bar were also profitable.

Second, following its thorough verification of data submitted by both Daehan and [REDACTED], the Commission has established that the export transactions are at arms-length and that there was no evidence of any reimbursement, compensation or consideration, other than the agreed price for the goods.

This confirms that in selling the steel reinforcing bars into the Australian market, [REDACTED] has incurred the full amount of the imposed 9.7% dumping duty and reflected this additional expense in its selling prices to ensure it remains profitable. This is no evidence that it chose to absorb any part of the dumping duties by lowering its selling prices.

Daehan's export prices

An examination of Daehan's export prices since the imposition of measures needs to take in account external factors which may explain or justify export prices being lower over the inquiry period. A comparison of the determined weighted average export prices for Daehan's exports during the original investigation period and the current inquiry period are shown in the graph below. It shows that export prices were lower during the current inquiry period when compared to the original investigation period.

[CONFIDENTIAL CHART DELETED]

However, this difference in export prices between the two periods is clearly related to the difference in cost of production for the exported goods, which is driven by the change in global and regional prices for steel billet and steel scrap, the raw material inputs used in the manufacture of steel reinforcing bars. This is apparent from Daehan's cost to make and sell verified by the Commission shown in the graph below:

[CONFIDENTIAL CHART DELETED]

The movement in Daehan's costs and corresponding export prices since the original investigation period is further supported by the similar trend observed in OneSteel's costs and selling prices for steel reinforcing bar. It shows that OneSteel's costs for rebar in coils decreased by 16 percentage points between 2013 and 2016, whilst selling prices decreased by a comparable 15 percentage points over the same period.

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Index of cost variations (rebar straights)

Period	2013	2014	2015	2016	Proposed Investigation Period
unit cost to make and sell	100	103	85	79	81

Period	Apr - Jun 2016	Jul - Sep 2016	Oct - Dec 2016	Jan - Mar 2017
unit cost to make and sell	100	102	102	116

Index of cost variations (rebar in coils)

Period	2013	2014	2015	2016	Proposed Investigation Period
unit cost to make and sell	100	98	86	84	90

Period	Apr - Jun 2016	Jul - Sep 2016	Oct - Dec 2016	Jan - Mar 2017
unit cost to make and sell	100	101	112	128

Source: label J of appendix A6.1

Index of price variations (rebar straights)

Period	2013	2014	2015	2016	Proposed Investigation Period
unit sales revenue	100	100	98	86	88

Period	Apr - Jun 2016	Jul - Sep 2016	Oct - Dec 2016	Jan - Mar 2017
unit sales revenue	100	113	105	113

Index of price variations (rebar in coils)

Period	2013	2014	2015	2016	Proposed Investigation Period
unit sales revenue	100	100	98	85	86

Period	Apr - Jun 2016	Jul - Sep 2016	Oct - Dec 2016	Jan - Mar 2017
unit sales revenue	100	110	104	113

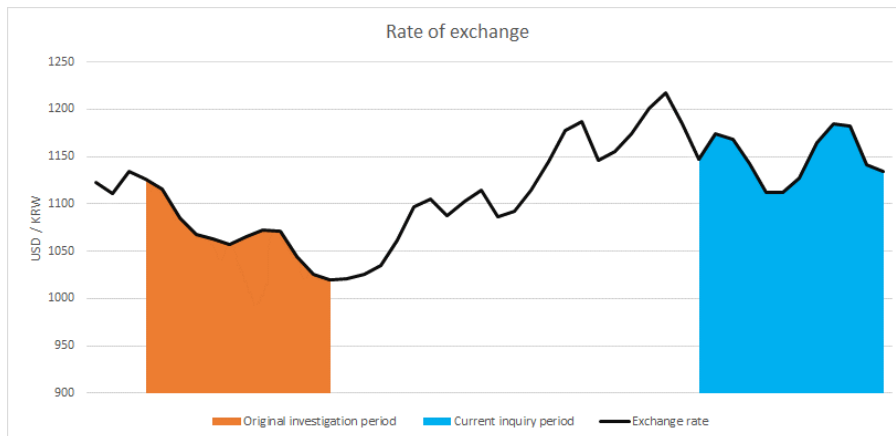
Source: label L of appendix A6.1

It is also important to note that the Commission identified in the original investigation that rebar was a commodity product where the price is largely determined by factors such as demand and supply, and movements in the costs of raw material inputs. This supported the Commission's decision to impose an ad valorem measure which would enable export prices to rise and fall consistent with global and regional raw material input costs such as steel scrap and steel billet.

The explanatory memorandum identifies currency fluctuations as an external factor which may have contributed to the importer's selling prices not increasing in accordance with the duties. Daehan notes that the Korean Won appreciated against the US dollar

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during the current inquiry period relative to the original investigation period, as shown in the graph below.



Based on the average exchange rates during the two observed periods, and with all other things being equal and unchanged, Daehan's [REDACTED] export prices during the current inquiry period would be approximately [REDACTED] % lower than that reported in the original investigation period. This confirms that movements in exchange rates have contributed to lowering Daehan's US dollar export prices.

Therefore, the decrease in Daehan's export price during the current inquiry period are consistent with:

- a general decrease in the observed market price for raw material inputs in the Asian region;
- a decrease in Daehan's actual verified cost to make and sell; and
- an appreciation in the Korean Won against the US dollar.

The decrease in export prices during the current inquiry period do not in any way support the allegation that Daehan has deliberately lowered its export prices in order to circumvent the existing measure. This is plainly not the case and the submitted data refutes any such claim.

Yours sincerely

John Bracic