



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**CONSIDERATION REPORT
NO. 468**

**CONSIDERATION OF AN APPLICATION FROM
LIBERTY ONESTEEL (NEWCASTLE) PTY LTD FOR
A REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
ROD IN COIL EXPORTED TO AUSTRALIA FROM THE
PEOPLE'S REPUBLIC OF CHINA**

APRIL 2018

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ABBREVIATIONS

Abbreviation	Full title
ADN	Anti-dumping Notice
the Act	<i>Customs Act 1901</i>
the applicant	Liberty OneSteel (Newcastle) Pty Ltd
the applicant's proposed review period	1 January 2017 – 31 December 2017
the Assistant Minister	the Assistant Minister for Science, Jobs and Innovation
the benchmark	Latin American steel billet export prices at the free on board (FOB) level
China	The People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
EPR	Electronic Public Record
the goods	the goods to which the anti-dumping measures apply
Liberty OneSteel	Liberty OneSteel (Newcastle) Pty Ltd
the low volume exporter provisions	provisions under section 269TAB, which may be applied to determine the export price in circumstances where there are no exports, or a low volume of exports, during the period examined for a review of measures.
NIP	Non-injurious price
original investigation period	1 July 2014 – 30 June 2015
Review 413 and 414	<i>Anti-Dumping Commission Review of measures applying to rod in coil exported to Australia from China by Jiangsu Shagang Group Co., Ltd. and Hunan Valin Xiangtan Iron & Steel Co., Ltd.</i>
REP 301	<i>Anti-Dumping Commission Report No. 301</i>
review period	1 April 2017-31 March 2018
rod in coil	steel rod in coils (the goods)

1 SUMMARY AND RECOMMENDATION

1.1 Background

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by Liberty OneSteel (Newcastle) Pty Ltd (Liberty OneSteel) for a review in respect of the anti-dumping measures applying to exports of rod in coil (the goods) from the People's Republic of China (China) to Australia.

The application is based on an alleged change in the variable factors; being the normal value and export price (a variable factors review).

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)¹ sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in dealing with an application for a review of measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

Subsection 269ZC(4) provides that the Commissioner, if he decides to not reject the application, may recommend to the Assistant Minister for Science, Jobs and Innovation (the Assistant Minister)² that the review be extended to include any additional matters.³

1.3 Findings and conclusions

Based on the findings outlined in this report the Commission is satisfied:

- the application complies with subsections 269ZB(1) and (2); and
- that there appear to be reasonable grounds for asserting the variable factors relevant to the taking of anti-dumping measures, in respect of rod in coil exported from China to Australia, have changed.

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

² On 20 December 2017, the Prime Minister appointed the Parliamentary Secretary to the Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation.

³ For example, if the change in variable factors affects all exporters, it may be recommended that the review is extended to include all exporters.

1.4 Recommendation

The Commission recommends that the Commissioner not reject the application, for the reasons outlined in section 1.3 and chapter 3 of this report, and initiate a review into the anti-dumping measures applying to rod in coil exported from China to Australia.

As the Commission is satisfied that there are reasonable grounds to establish that there has been a change in the variable factors⁴ referred to in subsection 269ZC(2), it recommends that the Commissioner not reject the application under subsection 269ZC(1), and inform the applicant, by notice in writing, accordingly.

⁴ As defined in subsection 269T(4E), in relation to a review of a dumping duty notice, the variable factors are export price, normal value and non-injurious prices (NIP). Although Liberty OneSteel has not claimed a change in the NIP in the application, the Commission considers it necessary to review all relevant variable factors, including the NIP.

2 BACKGROUND

2.1 History of the existing anti-dumping measures

The Commission has conducted numerous investigations, reviews and inquiries relating to rod in coil. Full details can be found on the Commission’s electronic public record at www.adcommission.gov.au. The matters relevant to the applications are summarised below.

12 August 2015	The Commission initiated an investigation into the alleged dumping of rod in coil exported to Australia from China following an application by OneSteel Manufacturing Pty Ltd. ⁵
22 April 2016	The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science published a dumping duty notice applying to rod in coil exported from China as a result of <i>Anti-Dumping Commission Report No. 301</i> (REP 301).
24 May 2017	The Commission initiated two single exporter reviews in relation to exports of the goods from China to Australia made by Jiangsu Shagang Group Co., Ltd and Huan Valin Xiangtan Iron & Steel Co., Ltd (Reviews 413 and 414). Further information is contained in <i>Anti-Dumping Consideration Report Nos. 413 and 414</i> .

2.2 The current review application

On 8 March 2018, an application was lodged by Liberty OneSteel requesting a review of the anti-dumping measures as they apply to exports of rod in coil to Australia from China.

The application is not precluded by subsection 269ZA(2), which provides that an application for review must not be lodged earlier than 12 months after the publication of a dumping duty notice, or a notice declaring the outcome of the last review of measures.⁶

⁵ On 1 September 2017, OneSteel Manufacturing Pty Ltd was acquired by the GFG Alliance and rebranded as Liberty OneSteel, a division of the Liberty Steel Group. On 1 March 2018, Liberty OneSteel (Newcastle) Pty Ltd replaced OneSteel Manufacturing Pty Limited as the sole producer in Australia of like goods to the goods. The Commission is satisfied that Liberty OneSteel (Newcastle) Pty Ltd is an affected party within the definition of subsection 269T and is eligible to request that the Commissioner initiate a review of measures.

⁶ The dumping duty notice in relation to goods exported from China was ADN 2016/47 published on 22 April 2016. The publication declaring the outcome of reviews 413 and 414 has not yet occurred.

Pursuant to subsection 269ZC(1), the Commissioner must, within 20 days after receiving the application, examine the application and decide whether to reject the application. If the Commissioner is not satisfied, having regard to the application and to any other information that the Commissioner considers relevant, of one or more matters referred to in subsection 269ZC(2), the Commissioner must reject the application. In this case, the decision whether to reject the application must be made no later than **28 March 2018**.

Liberty OneSteel claims that certain variable factors relevant to the taking of the anti-dumping measures have changed within the period 1 January 2017 to 31 December 2017 (the applicant's proposed review period).

2.2.1 Normal value

In REP 301, the Commission constructed the normal values of selected exporters⁷ of the goods in accordance with subsection 269TAC(2)(c).

In constructing normal values, the Commission considered that Chinese exporters' costs for steel billet were not reflective of competitive market costs and were adjusted to reflect a benchmark competitive market cost for steel billet (the benchmark). The benchmark was based on Latin American steel billet export prices at the free on board (FOB) level.

The applicant referred to a change in the average monthly movements of the benchmark as a basis for evidencing a change in the normal value of the goods exported from China.

2.2.2 Export price

In REP 301, export prices for exports of rod in coil to Australia from China for selected exporters⁸ were determined under subsection 269TAB(1)(a).

The applicant's claim that the export price has changed is based upon the possible application of certain provisions under section 269TAB, which may be applied to determine the export price in circumstances where there are no exports, or a low volume of exports, during the period examined for a review of measures (the low volume exporter provisions).⁹

⁷ The normal value determined for uncooperative exporters was calculated under subsection 269TAC(6).

⁸ The export price determined for uncooperative exporters was calculated under subsection 269TAB(3).

⁹ These provisions were introduced as a result of the *Customs Amendment (Anti-Dumping Measures) Bill 2017*, which received royal assent on 30 October 2017.

2.2.3 Non-injurious price

Liberty OneSteel has not claimed a change in the NIP in the application, the Commission considers it necessary to review all relevant variable factors, including the NIP.¹⁰

2.3 The goods subject to the anti-dumping measures

2.3.1 Description of the goods

The goods to which the current anti-dumping measures apply (the goods) are:

Hot rolled rods in coils of steel, whether or not containing alloys, that have maximum cross sections that are less than 14mm.

The goods covered include all steel rods meeting the above description regardless of the particular grade or alloy content.

2.3.2 Excluded goods

The measures do not apply to the following goods:

Goods excluded include hot-rolled deformed steel reinforcing bar in coil form, commonly identified as rebar or debar, and stainless steel in coils.

2.3.3 Tariff classification

Goods identified as hot rolled non-alloy steel sections, as described above, are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7213.91.00 (statistical code 44);
- 7227.90.90 (statistical code 02); and
- 7227.90.90 (statistical code 42).

¹⁰ As defined in subsection 269T(4E), in relation to a review of a dumping duty notice, the variable factors are export price, normal value and non-injurious prices (NIP).

3 CONSIDERATION OF THE APPLICATION

3.1 Legislative background

Subsection 269ZB(1) requires that the application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that can be required by the form, subsection 269ZB(2) provides that the application must include:

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
 - the variable factors relevant to the taking of the anti-dumping measures that have changed; and
 - the amount by which each such factor has changed; and
 - the information that establishes that amount;
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters which must be considered in making a decision whether to reject the application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
 - that the variable factors relevant to the taking of anti-dumping measures have changed;
 - that the anti-dumping measures are no longer warranted.

3.2 Assessment of the application — compliance with section 269ZB

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that the application submitted on 8 March 2018:

- is in writing;
- is in the approved form (*Form B602 — Application for a review of measures*) and contains such information as the form requires (including evidence in support of the amount by which the variable factors have changed since anti-dumping measures were last imposed and information on the causes of the change to normal value and whether these causes are likely to persist);
- is signed in the manner required by the form;

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- was lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provides a description of the kind of goods to which the anti-dumping measures the subject of the application relates;
- provides a description of the anti-dumping measures the subject of the application; and
- includes a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the measures taken that have changed; the amount by which each such factor has changed; and the information that establishes that amount.

The Commission is satisfied that the applicant has satisfied the requirements of subsections 269ZB(1) and (2). Section 3.3 addresses the applicant's claim that there has been a change in the variable factors.

3.3 Assessment of claimed change in variable factors

The Commission considers that to comply with section 269ZB, the applicant must provide information to establish that, in the applicant's opinion, one or more of the variable factors have changed. The applicant does not have to provide information to establish that all the variable factors have changed.

3.3.1 Normal value established in REP 301

In REP 301, it was established that, the Government of China influenced the Chinese steel industry, and that this influence is likely to have materially distorted competitive market conditions directly affecting both the price of the primary input used in the manufacture of rod in coil, as well as supply within that industry. The Commission determined that, in accordance with subsection 269TAC(2)(a)(ii), a situation exists in the domestic Chinese rod in coil market that renders domestic selling prices in that market unsuitable for the purpose of determining the normal value for rod in coil under subsection 269TAC(1). The Commission constructed the normal values of selected exporters of the goods in accordance with subsection 269TAC(2)(c).

Subsection 269TAC(2)(c) provides that, where the normal value cannot be ascertained under subsection 269TAC(1), the normal value of the goods is to be calculated as:

- the cost of production or manufacture of the goods in the country of export; and
- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the selling, general and administrative costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and 269TAC(5B), the costs of production or manufacture, the selling, general and administrative (SG&A) costs and profit are established in accordance with the regulations. The relevant regulations are sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015*, respectively.

In constructing the normal values in Investigation 301, Chinese exporters' costs for steel billet were not considered reflective of competitive market costs and were adjusted to reflect a benchmark competitive market cost for steel billet (the benchmark). The benchmark was based on Latin American steel billet export prices at the free on board (FOB) level.

3.3.2 Applicant's claim regarding change in normal value

In constructing the normal values in REP 301, Chinese exporters' costs for steel billet were not considered reflective of competitive market costs and were adjusted to reflect a competitive market cost for steel billet using the benchmark.

The applicant states that the benchmark has reduced during the review period by **9.0** per cent compared with the original investigation period. The applicant provided monthly data of Latin American steel billet export prices since the original investigation period to support this claim. The applicant stated that changes in the average monthly Latin American steel billet export price would directly change the Commission's calculation of the constructed normal values and therefore impact upon normal values, particularly given the Commission's observation in REP 301 that steel billet represents the single largest proportion of the constructed normal value.

The applicant also submitted an alternative approach to determining the benchmark, using steel billet costs from exporters and manufacturers in Indonesia, Taiwan, Thailand and Spain.

3.3.3 The Commission's assessment of claim regarding change in normal value

The Commission considers that Liberty OneSteel has provided:

- a statement that normal value has changed; and
- a statement of its opinion concerning the amount by which the normal value has changed (based on the difference between the ascertained normal value of the original investigation and revised normal value calculations); and
- information that establishes that amount.

The applicant has also complied with the various legislative requirements for submitting the form and has included the information required by the form.

Therefore, the Commission is satisfied that, in respect to this variable factor, the application complies with subsections 269ZB(1) and (2).

3.3.4 Export price established in Investigation 223

In REP 301, export prices for exports of rod in coil to Australia from China for selected exporters¹¹ were determined under subsection 269TAB(1)(a).

3.3.5 Applicant's claim regarding change in export price

The applicant has stated that it is difficult to determine the volumes of goods exported from China during the applicant's proposed review period. The applicant has submitted that, if each exporter of goods from China exported either zero or low volumes of exports of the goods in the proposed review period then, to the extent that such exporters may be regarded as 'low volume exporters' in accordance with section 269TAB(2A), the Commission should determine the export price either under section 269TAB(2B) or (3).

The applicant further submits that if this is the case the export price may be adjusted in accordance with section 269TAB(2G), which allows the Minister to determine adjustments necessary to reflect what the export price would have been had there not been an absence or low volume of exports. The applicant claims that if this adjustment factor were applied, the ascertained export price would have decreased in the review period compared with the original investigation period.

The adjustment factor assumed by the applicant used the AUD price of rod in coil exported from all countries during the original investigation period compared with the AUD price of rod and coil exported from all countries during the applicant's proposed review period.

The applicant submits that if this methodology is used to calculate the adjustment factor then the export price from the investigation period will decrease by **10.9** per cent for the applicant's proposed review period.

The applicant submitted that new and re-emergent sources of imports will continue to apply downward pressure to export prices from all sources. It is on this basis that the applicant submitted that the downward movement in export prices is expected to persist.

3.3.6 The Commission's assessment of claim regarding change in the export price

The applicant's claim that the export price has changed relies upon a possible application of the low volume exporter provisions (subsections 269TAB(2A) to (2G)). The applicant's statement of opinion as to the causes for the change to export prices and whether these causes are likely to persist is based on a trend observed in relation to export prices from other countries.

¹¹ The export price determined for uncooperative exporters was calculated under subsection 269TAB(3).

Liberty OneSteel's opinion relies on certain assumptions. The Commission considers that reliance on the low volume exporter provisions to evidence a change in the export price by the applicant is problematic as:

- it is unclear whether the provisions will affect all exporters, or that they would be affected in the same way. The application does not seem to consider whether all exporters of the goods from China should be determined to be low or no volume exporters, by having regard to the requirements of subsection 269TAB(2A). This is a necessary precondition to engaging the alternative methods of determining export price in subsection 269TAB(2B); and
- in any event, if all of the exporters were determined to be low or no volume exporters, it may not be appropriate to engage any of the alternative methods to determine the export price under subsection 269TAB(2B).

In these circumstances the Commission considers that the applicant has not established that there are reasonable grounds to assert a change in the export price.

3.4 Assessment of application — compliance with sections 269ZB and 269ZC

The Commission is satisfied that the application complies with subsections 269ZB(1) and (2). In addition, there appear to be reasonable grounds for the applicant to assert under subsection 269ZC(2)(b)(i) that the at least one of the variable factors relevant to the taking of anti-dumping measures has changed.

Based on this assessment, the Commission considers that the Commissioner must not reject the application pursuant to subsection 269ZC(1) as it is satisfied of the matters referred to in subsection 269ZC(2).

3.5 Conclusions and recommendations

The Commission has considered the application in accordance with sections 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the application and other relevant information, that:

- the application complies with section 269ZB; and
- there appear to be reasonable grounds for asserting that at least one of the variable factors relevant to the taking of the anti-dumping measures have changed.

The Commission recommends that the Commissioner:

- not reject the application and initiate a review into the current anti-dumping measures applying to exports of the goods from China; and
- the review period be set as 1 April 2017 to 31 March 2018.¹²

¹² The applicant's proposed review is 1 January 2017- 31 December 2017. The Commission notes that the applicant's proposed period overlaps with the review period for Reviews 411 and 412, which is 1 April 2016 to 31 March 2017. Furthermore, the Commission's usual practice is to examine exporters' sales and cost data for a 12 month period preceding the review initiation,

4 APPENDICES

Confidential Appendix 1	Liberty OneSteel's Analysis of movements in the monthly average Latin American steel billet prices to evidence a change in the normal value.
Confidential Appendix 2	Liberty OneSteel's Analysis of AUD price of rod in coil exported from all countries during the original investigation period compared with the AUD price of rod in coil exported to support a change in the export price.
Confidential Appendix 3	Liberty OneSteel's Analysis of the price of scrap exported from USA to Korea in USD.
Confidential Appendix 4	The Commission's analysis of export prices based on the Department of Home Affairs database and analysis of movements in the benchmark denoted in RMB.

ending with the most recently competed quarter. The Commission further notes that information before it shows a material change in the relevant benchmark for a review period of 1 April 2017-31 March 2018.