



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

**CONSIDERATION REPORT
NO. 486**

**CONSIDERATION OF AN APPLICATION FROM
DITH AUSTRALIA PTY LTD FOR A REVIEW OF
ANTI-DUMPING MEASURES APPLYING TO
STEEL REINFORCING BAR EXPORTED TO AUSTRALIA FROM
THE REPUBLIC OF KOREA**

JULY 2018

TABLE OF CONTENTS

TABLE OF CONTENTS..... 2

ABBREVIATIONS 3

1 SUMMARY AND RECOMMENDATION 4

 1.1 Background..... 4

 1.2 Legislative background 4

 1.3 Findings and conclusions 4

 1.4 Recommendation..... 5

2 BACKGROUND..... 6

 2.1 History of the existing anti-dumping measures..... 6

 2.2 The current review application 7

 2.3 Normal value 7

 2.4 Export price..... 8

 2.5 Non-injurious price..... 8

 2.6 The goods subject to the anti-dumping measures..... 8

 2.6.1 Description of the goods 8

 2.6.2 Excluded goods..... 8

 2.6.3 Tariff classification 9

3 CONSIDERATION OF THE APPLICATION 10

 3.1 Legislative background 10

 3.2 Assessment of the application – compliance with section 269ZB..... 10

 3.3 Assessment of claimed change in variable factors 11

 3.3.1 Applicant’s claim regarding change in normal value..... 11

 3.3.2 Commission’s assessment of claim regarding change in normal value 12

 3.3.3 Applicant’s claim regarding change in export price 12

 3.3.4 Commission’s assessment of claim regarding change in export price 13

 3.4 Assessment of application – compliance with sections 269ZB and 269ZC 13

 3.5 Conclusions and recommendations..... 14

4 APPENDICES..... 15

PUBLIC RECORD

ABBREVIATIONS

Abbreviation	Full title
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
the applicant	DITH Australia Pty Ltd
the Assistant Minister	the Assistant Minister for Science, Jobs and Innovation
Celsa Barcelona	Compania Espanola De Laminacion, S.L
CFR	Cost and Freight
Korea	The Republic of Korea
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Daehan	Daehan Steel Co. Ltd
EPR	Electronic Public Record
FOB	Free On Board
the goods	the goods to which the anti-dumping measures apply
Korea	the Republic of Korea
NIP	non-injurious price
original investigation period	1 July 2013 to 30 June 2014
then Parliamentary Secretary	then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science
rebar	steel reinforcing bar (the goods)
REP 264	<i>Anti-Dumping Commission Report No. 264</i>
review period	1 July 2017 to 30 June 2018
TER 352	<i>Anti-Dumping Commission Termination Report No. 352</i>

1 SUMMARY AND RECOMMENDATION

1.1 Background

This report provides the results of consideration by the Anti-Dumping Commission (the Commission) of an application lodged by DITH Australia Pty Ltd (the applicant) an Australian importer of steel reinforcing bar (rebar or the 'goods') for a review in respect of the anti-dumping measures applying to exports of rebar from Daehan Steel Co. Ltd (Daehan) from the Republic of Korea (Korea).

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) that the review be extended to include any additional matters.²

1.3 Findings and conclusions

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

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

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

² 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

As the Commission is satisfied that there are reasonable grounds for asserting that there has been a change in the variable factors³ referred to in subsection 269ZC(2), it recommends that the Commissioner not reject the application under subsection 269ZC(1).

For the reasons outlined in section 1.3 and chapter 3 of this report, the Commission recommends that the Commissioner initiate a review into the anti-dumping measures applying to rebar exported from Korea to Australia by Daehan.

³ 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 price (NIP). Although the applicant 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 rebar. Full details can be found on the Commission’s electronic public record at www.adcommission.gov.au. The matters relevant to the application are summarised below.

17 October 2014	The Commission initiated an investigation into the alleged dumping of rebar exported to Australia from Korea, Malaysia, Singapore, Spain, Thailand and Turkey following an application by OneSteel Manufacturing Pty Ltd. ⁴
19 November 2015	The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (then Parliamentary Secretary) published a dumping duty notice applying to rebar exported to Australia from Korea, Singapore, Spain and Taiwan (except Power Steel Co Ltd) as a result of <i>Anti-Dumping Commission Report No. 264</i> (REP 264). ⁵
4 March 2016	The then Parliamentary Secretary’s decision was reviewed by the Anti-Dumping Review Panel (ADRP) and the ADRP found that the decision of the then Parliamentary Secretary in REP 264 was the correct and preferable decision except in relation to Spanish exporter Nervacero S.A. The ADRP’s recommendation was published in ADRP Report No. 34. ⁶ As a result of the ADRP’s recommendations (which were accepted by the then Parliamentary Secretary), rebar exported from Spain by Nervacero S.A is not subject to the dumping duty notice applying to rebar from Korea, Singapore, Spain and Taiwan (except Power Steel Co Ltd).
13 April 2017	At the request of the then Parliamentary Secretary, the Commission initiated a single exporter review in relation to exports of rebar from Spain to Australia by Compania Espanola De Laminacion, S.L (Celsa Barcelona). As a result of <i>Anti-Dumping Commission Report No. 380</i> , ⁷ the then Parliamentary Secretary published a notice that the dumping duty notice applying to the goods exported to Australia from Spain by Celsa Barcelona was taken to have effect as if different variable factors had been fixed in respect of Celsa Barcelona.
20 November 2017	The Commission initiated an inquiry into alleged circumvention activity in relation to the original notice applicable to rebar exported to Australia from Korea by Daehan. The circumvention activity alleged was the avoidance of the intended effect of the duty within the meaning of subsection 269ZDBB(5A) of the Act. The inquiry was terminated by the Commission on 26 April 2018. <i>Anti-Dumping Commission Termination Report No. 452</i> (TER 452) refers. ⁸

⁴ On 1 September 2017, OneSteel Manufacturing Pty Ltd was acquired by the GFG Alliance and rebranded as Liberty OneSteel.

⁵ Document 98, EPR 264.

⁶ <http://www.adreviewpanel.gov.au/CurrentReviews/Documents/ADRP%20Report%2034%20Rebar%20FINAL.pdf>

⁷ Document 6, EPR 380.

⁸ Document 16, EPR 452.

2.2 The current review application

On 22 June 2018, an application was lodged by the applicant requesting a review of the anti-dumping measures as they apply to exports of rebar to Australia from Korea by Daehan.

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 dumping duty notice.⁹

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 **11 July 2018**.

The applicant claims that certain variable factors relevant to the taking of the anti-dumping measures in relation to exports of the goods by Daehan have changed within the period 1 July 2017 to 30 June 2018.

2.3 Normal value

In REP 264, normal values for Daehan were determined in accordance with subsection 269TAC(1) based on domestic sales of comparable models in the ordinary course of trade.

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(8) as follows.¹⁰

Adjustment type	Description
Domestic credit	Deduct a weighted average calculated cost of domestic credit.
Domestic technical support	Deduct a weighted average calculated cost of technical support.
Domestic inland freight	Deduct a weighted average cost of inland freight.
Domestic inventory carrying cost	Deduct a weighted average calculated inventory carrying cost.

⁹ The dumping duty notice in relation to the goods exported from Korea was ADN2015/133 published on 19 November 2015. The notice declaring the outcome of the last review of the notice was published on 13 April 2017.

¹⁰ Adjustments to normal values for certain models determined under subsection 269TAC(1) for exporters were made under subsection 269TAC(8) to ensure the comparability of normal values to export prices, where domestic and export sales:

- related to sales occurring at different times; or
- were not in respect of identical goods; or
- were modified in different ways by taxes or the terms or circumstances of the sales to which they related.

PUBLIC RECORD

Adjustment type	Description
Export inland freight	Add a weighted average export inland freight cost.
Export credit	Add a weighted average calculated cost of domestic credit.
Export handling charges	Add a weighted average export handling charge.

Table 1 - Summary of adjustments (Daehan Steel) in REP 264

2.4 Export price

In REP 264, export prices for sales of rebar to Australia by Daehan were determined under subsection 269TAB(1)(c) being a price determined having regard to all the circumstances of the exportation.

During the original investigation period (i.e. 1 July 2013 to 30 June 2014) it was established that the goods sold by Daehan had been exported to Australia otherwise than by the importer; that the goods had not been purchased by the importer from the exporter; and that the purchases of the goods were arm's length transactions.

2.5 Non-injurious price

In REP 264, the Commissioner calculated a NIP equal to the normal value for each exporter.

While the applicant 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.

2.6 The goods subject to the anti-dumping measures

2.6.1 Description of the goods

The goods to which the current anti-dumping measures apply (the goods) 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; and*
- *Regardless of the particular grade or alloy content or coating.*

2.6.2 Excluded goods

The measures do not apply to the following goods:

- *Plain round bar;*
- *Stainless steel; and*
- *Reinforcing mesh.*

2.6.3 Tariff classification

Goods identified as steel reinforcing bar, as described above, are classified to the following tariff subheadings in schedule 3 to the *Customs Tariff Act 1995*:

- 7213.10.00 statistical code 42;
- 7214.20.00 statistical code 47;
- 7227.90.10 statistical code 69;
- 7227.90.90 statistical codes 01, 02 and 04;
- 7228.30.10 statistical code 70
- 7228.30.90 statistical code 40; and
- 7228.60.10 statistical code 72.

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; and
- 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 22 June 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 export price, and whether these causes are likely to persist);
- is signed in the manner required by the form;

PUBLIC RECORD

- 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

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.¹¹ The applicant does not have to provide information to establish that all the variable factors have changed.

3.3.1 Applicant's claim regarding change in normal value

In support of its claim regarding a change in normal value, the applicant stated that as steel billet accounts for a vast proportion of the total cost to make and sell of rebar, it has determined contemporary normal values by indexing Daehan's original ascertained normal values calculated by the Commission in REP 264, by reference to the movement in Latin American free on board (FOB) export prices for steel billet. Data provided by the applicant indicates that Latin American FOB export prices fell when comparing the average billet price over the original investigation period and the relevant months of the proposed review period (July 2017 to June 2018).

Based on the decrease in published billet prices, the applicant estimates a prevailing contemporary ascertained normal value which is different to the original ascertained normal value calculated for Daehan in REP 264. Refer to **Confidential Appendix 1** for the applicant's calculations regarding estimated normal value.

The applicant claims normal values at these contemporary levels are likely to persist given current trends in scrap prices which show similar fluctuations and movements. Refer to **Confidential Appendix 2** for the data provided by the applicant to support this claim.

¹¹ Subsection 269ZB(2)(c).

3.3.2 Commission's assessment of claim regarding change in normal value

The Commission has reviewed the data provided by the applicant to support its statement of opinion that the normal value has decreased.

The Commission considers that published South East Asian billet prices are a more reliable indicator of movements in Daehan's cost to make and sell rebar as compared to Latin American FOB billet prices.

The Commission notes that the normal value in respect of Korean exporters in REP 264 are expressed in Korean Won. Published South East Asian billet price movements when analysed in Korean Won show that the average billet price increased over the proposed review period when compared to the original investigation period. Refer to **Confidential Appendix 3** for the Commission's analysis.

The Commission notes that average scrap prices in the proposed review period are lower than during the original investigation period. The information regarding the movement in scrap prices provided by the applicant is consistent with the Commission's analysis (see **Confidential Appendix 3**), and the Commission's findings in TER 452. The Commission notes that in TER 452, after conducting an onsite verification of exporter data provided by Daehan, the Commission found that for the period 1 April 2016 to 31 March 2017, Daehan's normal value had reduced as compared to the original investigation period and that the reduction in Daehan's cost of production was comparable to the reduction in scrap prices over the same period.

The applicant 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.

The submitted evidence and additional analysis supports the view that there are reasonable grounds for asserting that the ascertained normal value relevant to the taking of anti-dumping measures has changed in relation to exports by Daehan.

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

3.3.3 Applicant's claim regarding change in export price

In relation to its claim regarding a change in export price, the applicant stated that it has imported rebar sourced from Daehan into Australia. The applicant's contemporary import prices are supported by copies of commercial invoices.

Information provided by the applicant indicates that Daehan's weighted average FOB export price across the proposed review period has increased when compared to its

ascertained export price for the original investigation period. Refer to **Confidential Appendix 4** for the applicant's calculations regarding FOB export price.

The applicant stated that during the intervening period between the end of the original investigation period (June 2014) and the commencement of the applicant's imports, regional steel billet prices have steadily increased. Refer to **Confidential Appendix 5** for published steel billet prices provided by the applicant.

In the applicant's opinion, the steady increase in steel billet prices will continue and contemporary export prices will persist at their current levels.

3.3.4 Commission's assessment of claim regarding change in export price

The Commission has reviewed the data provided by the applicant to support its statement of opinion that the export price has increased.

The Commission has observed rebar price indices in South East Asia and notes that average Cost and Freight (CFR) export prices for rebar in US dollars are higher during the proposed review period as compared to the original investigation period (see **Confidential Appendix 3**).

The Commission considers that the applicant has provided:

- a statement that export price has changed; and
- a statement of its opinion concerning the amount by which the export price has changed (based on the difference between the ascertained export price of the original investigation and revised export price 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).

3.4 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 at least one of the variable factors relevant to the taking of anti-dumping measures has changed.

Based on this assessment, the Commission recommends that the Commissioner 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 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 Korea, so far as they affect Daehan; and
- the review period be set as 1 July 2017 to 30 June 2018.

4 APPENDICES

Confidential Appendix 1	The applicant's calculations regarding estimated normal value.
Confidential Appendix 2	The applicant's analysis of movements in East Asian import scrap prices to evidence a change in the normal value.
Confidential Appendix 3	The Commission's analysis of movements in scrap prices, billet prices and rebar prices.
Confidential Appendix 4	The applicant's analysis of movements in the FOB export prices regarding rebar imported to Australia to evidence a change in the export price.
Confidential Appendix 5	The applicant's analysis of movements in published steel billet prices to evidence a change in the export price.