



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

**Anti-Dumping  
Commission**

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***CUSTOMS ACT 1901 - PART XVB***

**CONSIDERATION REPORT  
NO. 489**

**CONSIDERATION OF AN APPLICATION FROM  
LIBERTY ONESTEEL (NEWCASTLE) PTY LTD FOR A REVIEW OF  
ANTI-DUMPING MEASURES APPLYING TO**

**STEEL REINFORCING BAR**

**EXPORTED TO AUSTRALIA FROM  
THE REPUBLIC OF KOREA AND TAIWAN (WITH THE EXCEPTION  
OF POWER STEEL CO. LTD)**

**JULY 2018**

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**ABBREVIATIONS**

<b>Abbreviation</b>	<b>Full title</b>
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
the applicant	Liberty OneSteel (Newcastle) Pty Ltd; previously known as OneSteel Manufacturing 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
DITH	DITH Australia Pty Ltd
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 Liberty OneSteel (Newcastle) Pty Ltd (the applicant) an Australian manufacturer of steel reinforcing bar (rebar or the 'goods') for a review in respect of the anti-dumping measures applying to exports of rebar from the Republic of Korea (Korea) and Taiwan (with the exception of Power Steel Co Ltd).

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)<sup>1</sup> 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)<sup>2</sup> that the review be extended to include any additional matters.<sup>3</sup>

### 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 to Australia from Korea and Taiwan (with the exception of Power Steel Co Ltd) have changed.

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

<sup>2</sup> 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.

<sup>3</sup> 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 factors<sup>4</sup> referred to in subsection 269ZC(2), it recommends that the Commissioner not reject the application under subsection 269ZC(1).

For the reasons outlined in 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 and Taiwan (with the exception of Power Steel Co Ltd) to Australia.

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<sup>4</sup> 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](http://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. <sup>5</sup>
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). <sup>6</sup>
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. <sup>7</sup> 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> , <sup>8</sup> 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. <sup>9</sup>
22 June 2018	An application for a single exporter review in relation to exports of rebar from Korea to Australia by Daehan Steel Co. Ltd was received from DITH Australia

<sup>5</sup> On 1 September 2017, OneSteel Manufacturing Pty Ltd was acquired by the GFG Alliance and rebranded as Liberty OneSteel.

<sup>6</sup> Document 98, EPR 264.

<sup>7</sup> <http://www.adreviewpanel.gov.au/CurrentReviews/Documents/ADRP%20Report%2034%20Rebar%20FINAL.pdf>

<sup>8</sup> Document 6, EPR 380.

<sup>9</sup> Document 16, EPR 452.

	Pty Ltd, an Australian importer. The Commissioner decided not to reject the application on 10 July 2018.
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## 2.2 The current review application

On 10 July 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 and Taiwan (with the exception of Power Steel Co Ltd).<sup>10</sup>

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.<sup>11</sup>

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 **30 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 have changed within the period 1 April 2017 to 31 March 2018.

In line with the Commission's practices any review would be proposed to cover the most recently completed financial quarter to the date the application for review was received, thus the proposed review period would be 1 July 2017 to 30 June 2018.

## 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 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.*

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<sup>10</sup> A separate application was made by DITH Australia on 22 June 2018, regarding rebar exports from Korea by Daehan.

<sup>11</sup> 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 ADN2017/33 published on 13 April 2017.

### **2.3.2 Excluded goods**

The measures do not apply to the following goods:

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

### **2.3.3 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 10 July 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;

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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 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 below 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.<sup>12</sup> 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 published sales information regarding domestic sales in Korea and Taiwan of like goods to the goods demonstrates movement since the original investigation period.

Based on the movement in published domestic selling prices, the applicant asserts a decrease (between 5.1% to 6.3% depending on exporter) in contemporary ascertained normal values compared to the original ascertained normal values calculated for exporters in REP 264.<sup>13</sup>

The applicant claims normal values at these contemporary levels are likely to persist given current trends in steel scrap prices which show similar fluctuations and movements.<sup>14</sup>

#### **3.3.2 Applicant's claim regarding change in export price**

In relation to its claim regarding a change in export price, the applicant stated that published export price information demonstrates movement in the FOB export price for the goods since the original investigation period.

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<sup>12</sup> Subsection 269ZB(2)(c).

<sup>13</sup> Refer to Confidential Appendix 1 for Applicant's data to support this claim.

<sup>14</sup> Refer to Confidential Appendix 2 for Applicant's data to support claim.

The applicant asserts a decrease (between 0.5% to 13.6% depending on exporter) in contemporary ascertained exporter prices since the anti-dumping measures were originally imposed.<sup>15</sup>

### **3.3.3 Assessment of the application – review of variable factors**

The Commission has reviewed the data provided by the applicant to support its statement of opinion that both normal values and export prices have decreased.

The Commission notes the applicant's claim that the change in variable factors is due '*in significant part*' to changes in raw materials costs, and that there is a correlation between global steel scrap prices and export prices to Australia.

The Commission notes that average steel 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<sup>16</sup>, and the Commission's findings in TER 452. The Commission notes that in TER 452, after conducting an onsite verification of data provided by the relevant exporter, the exporter's normal value for the period 1 April 2016 to 31 March 2017 had reduced as compared to the original investigation period and that the reduction in the overall cost of production was comparable to the reduction in scrap prices over the same period.

The applicant has 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 one or more of the variable factors relevant to the taking of anti-dumping measures has changed.

Therefore, 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 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).

## **3.4 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

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<sup>15</sup> Refer to Confidential Appendix 3 for Applicant's data to support claim.

<sup>16</sup> Refer to Confidential Appendix 4 for Commission analysis

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- 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 and Taiwan (with the exception of Power Steel Co, Ltd); and
- determine that the review period be set as 1 July 2017 to 30 June 2018.

**4 APPENDICES**

<b>Confidential Appendix 1</b>	The applicant's data regarding estimated normal values.
<b>Confidential Appendix 2</b>	The applicant's analysis of movements in steel scrap prices to evidence a change in normal values and export values.
<b>Confidential Appendix 3</b>	The applicant's analysis of movements in the FOB export prices regarding rebar imported to Australia to evidence a change in the export price.
<b>Confidential Appendix 4</b>	Commission's analysis of steel scrap prices.