

**Canberra**  
6/2 Brindabella Circuit  
Brindabella Business Park  
Canberra International Airport  
ACT 2609 Australia  
+61 2 6163 1000

**Brisbane**  
Level 4, Kings Row Two  
235 Coronation Drive  
Milton, Brisbane  
QLD 4064 Australia  
+61 7 3367 6900

**Melbourne**  
Level 39  
385 Bourke Street  
Melbourne  
VIC 3000 Australia  
+61 3 8459 2276



commercial + international

13 August 2021

**Mr Roman Maevsky**  
**Assistant Director**  
**Anti-Dumping Commission**  
**Level 6, 215 Spring Street**  
**Melbourne**  
**Victoria 3000**  
**Australia**

By email

Dear Roman

## **Investigation 558 –Aluminium zinc coated steel (≥600mm) Dongkuk Steel comments on preliminary margin calculation**

We refer to the draft exporter verification report (“the verification report”) concerning our client Dongkuk Steel Mill Co., Ltd. (“Dongkuk Steel”) as prepared by the Anti-Dumping Commission (“the Commission”). The verification report states a preliminary dumping margin of 6.9%. In Dongkuk Steel’s view, the preliminary dumping margin is incorrect and inflated. In the main, this is due to the manner in which the Commission has treated a particular adjustment claimed by Dongkuk Steel.

In its response to the Commission’s Exporter Questionnaire (“the EQR”), Dongkuk Steel identified that there are differences in sales and marketing efforts between its Australian and domestic sales of the goods under consideration (“the GUC”). Dongkuk Steel submitted that the effect of such differences should be quantified by classifying and allocating certain indirect selling expenses (“ISE”) based on [CONFIDENTIAL TEXT DELETED – allocation methodology] involved in the respective markets, and that an adjustment to the domestic price was warranted in order to ensure a fair comparison with the export price. This was identified in the form of an ISE for domestic markets, expressed as [CONFIDENTIAL TEXT DELETED – number]% of the domestic sales revenue, and an ISE of [CONFIDENTIAL TEXT DELETED – number]% for export markets. We will call these the “Adjustment Quantifiers”.

The verification report treated Dongkuk Steel’s claim conditionally. The view expressed therein is that there was insufficient evidence that the differences in sales efforts, as quantified by the ISE between the domestic and export sales, would translate into price differences that would affect the price comparison

between domestic and export sales.<sup>1</sup> However, Dongkuk Steel respectfully submits that the information available to the Commission, which was adopted for margin calculation purposes, *provides the very evidence that the verification report requires for the purposes of accepting Dongkuk's claim*, as we now explain.

The interaction and influences of **[CONFIDENTIAL TEXT DELETED – pricing considerations]** played a key part in Dongkuk Steel's sales teams' operation and management decisions, and the way that pricing decisions are made by the sales team. This was well demonstrated by Dongkuk Steel during the verification and acknowledged by the Commission.<sup>2</sup> As will be demonstrated further in this submission, we respectfully submit that the Adjustment Quantifiers presented by Dongkuk correctly captured the pricing effect of the differentiated sales effort, and provide direct evidence that the ISE based adjustments must be provided.

The Commission's preliminary normal value calculation was first required to determine whether Dongkuk Steel's domestic sales were in the ordinary course of trade ("the OCOT test"). The OCOT test was conducted by comparing the price of each domestic sales transaction with its corresponding cost to make and sell ("the CTMS"). The CTMS included domestic selling general and administrative expense ("the SG&A") based on a ratio of **[CONFIDENTIAL TEXT DELETED – number]**% of the domestic sales price.

Unusually, this SG&A ratio was not based on the Commission's standard practice, nor was it based on the amount reported in G-4.2 of the EQR, reconciled to Dongkuk Steel's financial record. The standard practice involves a calculation using the entirety of the exporter's indirect SG&A as a percentage of its company-wide revenue. This would have generated an SG&A of **[CONFIDENTIAL TEXT DELETED – number]**%.

In Dongkuk Steel's case, the **[CONFIDENTIAL TEXT DELETED – number]**% ratio consisted of:

- **[CONFIDENTIAL TEXT DELETED – number]** percentage points, being the indirect general and administrative expenses ("G&A") as a percentage of its company-wide revenue; and
- **[CONFIDENTIAL TEXT DELETED – number]** percentage points, being the ISE that Dongkuk Steel identified for the purpose of reporting the Adjustment Quantifiers.

Thus, in essence, the **[CONFIDENTIAL TEXT DELETED – number]**% SG&A was inflated by the Adjustment Quantifier, and resulted in an inflated CTMS.

The inclusion of the Adjustment Quantifier in the SG&A has a significant impact on the normal value calculation. By using the **[CONFIDENTIAL TEXT DELETED – number]**% SG&A for the purpose of the OCOT test, the verification report generated a higher OCOT domestic price level for the subject goods as compared to the domestic price level derived from an unadjusted SG&A of **[CONFIDENTIAL TEXT DELETED – number]**%. That is, the domestic price levels were directly influenced by and reflected the price effect of the Adjustment Quantifier, as part of the SG&A. The price differentiation effect of using different SG&A is demonstrated in **Attachment 1 – Adjustment Quantifier effect on normal value**

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<sup>1</sup> Dongkuk Verification Report, Confidential Attachment 2 at page 2.

<sup>2</sup> Dongkuk Verification Report, Confidential Attachment 2 at page 2.

[CONFIDENTIAL ATTACHMENT]. Usefully, the OCOT domestic price differences generated between methods using:

- SG&A incorporating the Adjustment Quantifier and
- SG&A without the Adjustment Quantifier,

provide clear analytical evidence to support Dongkuk's adjustment claim. As demonstrated in the attachment, the differences in sales effort, as reflected by the Adjustment Quantifier, shows the price effect that such ISE differences would have had on the domestic prices for normal value purpose, and consequently their comparison with export sales. Dongkuk Steel considers that, this quantitative analysis provides further support to its claim that expenses associated with sales efforts in different markets did affect its pricing decisions, and therefore also affected the comparability of domestic prices and the export prices to Australia during the investigation period. Higher sales effort/expenses in the domestic market were taken into account in domestic price decisions, resulting in relatively higher prices. On the other hand, lesser and lower sales effort/expenses for Australian sales were a pricing factor resulting in relatively lower prices to that export market. The quantitative analysis confirms Dongkuk Steel view that if domestic sales had involved lower ISE, equivalent to its effort for export sales, then its domestic prices for like goods for normal value purpose would have been lower. As such, it is submitted that an adjustment to the domestic prices reflecting the different sales efforts between the markets is justified and warranted. The normal value, once adjusted, would substantially reduce Dongkuk Steel's dumping margin from 6.9% to [CONFIDENTIAL TEXT DELETED – number]%.

If for any reason the Commission is still of the view that the sales effort-based adjustment as claimed by Dongkuk Steel should not be accepted, we submit that the Commission should at least restore the SG&A ratio without the Adjustment Quantifier. In this regard, we recall that the division and reclassification of indirect selling expenses based on [CONFIDENTIAL TEXT DELETED – allocation methodology] was solely for the purpose of quantifying the differentiated sales effort in the context of Dongkuk Steel's adjustment claim. The Adjustment Quantifier was not meant to replace Dongkuk's SG&A as stated in its financial record. Dongkuk Steel's recorded indirect selling expenses do not separately account for different sales teams or market destinations. As such, if the Commission maintains the view that any differences in Dongkuk's sales efforts would not have translated into price effect, then for the purpose of determining SG&A, the unadjusted SG&A ratio at [CONFIDENTIAL TEXT DELETED – number]%, which correctly reflects Dongkuk Steel's financial record for such indirect expenses, should be adopted. A normal value calculated with reference to the unadjusted SG&A would result in a dumping margin of [CONFIDENTIAL TEXT DELETED – number]%, not 6.9%. This also shows that, using the [CONFIDENTIAL TEXT DELETED – number]% SG&A as part of the OCOT test effectively resulted in an upward adjustment to the domestic price in OCOT and ultimately the normal value. The inflation itself is a direct reflection of the price effect of the Adjustment Quantifier as calculated by Dongkuk Steel. We respectfully submit that such an outcome is irreconcilable with the view that there is insufficient evidence indicating that the differences in sales effort affected prices, and that Dongkuk Steel's adjustment claim should be rejected. Therefore, if the Commission is of the view that no adjustment should be made to account for the sales effort differences, then it would be paramount and logically consistent for the Commission to determine the normal value using the unadjusted SG&A ratio of [CONFIDENTIAL TEXT DELETED – number]%, not [CONFIDENTIAL TEXT DELETED – number]%.

Yours sincerely



**Charles Zhan**  
Partner



**Macky Markar**  
Associate