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26 October 2021

The Director
Investigations 4
Anti-Dumping Commission
Level 6, 215 Spring Street
Melbourne
Victoria 3000
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By email

Dear Director

Investigation 558 – Aluminium zinc coated steel (⩾600mm) Dongkuk Steel comments concerning margin calculation method

We refer to the Commission's proposed revision of the confidential dumping margin calculation for Dongkuk Steel Mill Co., Ltd. ("Dongkuk") in this investigation. The purpose of this submission is to provide Dongkuk's view on certain aspects of the revision ("the Revised Calculation").

The Revised Calculation in question relates to the calculation of an amount for adjustment for the specification differences between the domestic model and the export model, where the normal value is determined based on the domestic sales of a "surrogate model" MCC, rather than MCC that is identical to the Australian sales of the goods. This adjustment was previously described as follows in the Commission's verification report for Dongkuk:[1]

Adjustment type	*Assessment for adjustment*	*Calculation method and evidence*
Specification	*A specification adjustment for the differences in physical characteristics is required where a domestic sales of a domestic surrogate model was used to compare to the export*	*The specification adjustment was calculated based on the difference between the cost to make of the two different models plus a gross margin.*

1 EPR588-49, at page 20.

	price of an Australian export model.	

The Revised Calculation proposes to make two changes to this adjustment. The first change is to calculate the differences between exported MCC and the surrogate MCC, based on the domestic cost to make *and sell* ("CTMS"), instead of the cost to make ("CTM") as originally adopted. The second change is that a profit calculated based on Dongkuk's domestic sales of like goods which passed the profitability based ordinary course of trade testing ("the OCOT profit") is adopted, rather than using the gross profit margin from all of Dongkuk's domestic sales of like goods.

At the outset, we recall that the requirement to make specification differences based adjustment is provided in Section 269TAC(8) of the *Customs Act 1901* ("the Act"), which states:

> *(8) Where the normal value of goods exported to Australia is the price paid or payable for like goods and that price and the export price of the goods exported:*
>
> *…*
>
> *(b) are not in respect of identical goods; or*
>
> *…*
>
> *that price paid or payable for like goods is to be taken to be such a price adjusted in accordance with directions by the Minister so that those differences would not affect its comparison with that export price.*

More specifically, we understand that the Commission's intention is to determine such adjustment in a manner provided in the Manual, which states:[2]

> *Physical characteristics and quality*
>
> *Adjustment is allowed for differences in physical characteristics where the differences can be quantified to ensure fair comparison. Relevant differences include quality, chemical composition, structure, or design.*
>
> *Evidence should be provided of different selling prices for products with different physical characteristics or quality. In such cases, the size of the price difference may be used as the basis for any adjustment.*
>
> *However, there may be situations where direct evidence of price differences cannot be provided (e.g. models sold domestically and exported to Australia are different). In these situations, adjustments for differences in physical characteristics or quality, where it reasonably affects price comparability, may be based on production cost differences plus the addition of the gross margin (i.e. the administrative, selling and general costs and profit) to the production cost difference. This is a means for calculating an adjustment that reflects the market value of the production cost difference.* [underlining supplied]

Against this background, Dongkuk provides the following comments in relation to the Revised Calcualtion.

2 Anti-Dumping Commission Dumping and Subsidy Manual, page 67.

Firstly, Dongkuk respectfully submit that the specification differences should be calculated based CTM, not CTMS. This is because, as identified in the legislation and the Manual above, the adjustment amount must relate to the physical differences between the exported goods and the domestic goods used for normal value purpose, ie. the *product cost differences*, and its associated market value only. By working out the specification differences based on the CTMS of different models, the comparison result is affected by both the differences in production costs, and the SG&A differences between different models. Such differences do not represent the *production cost differences* and the physical differences between the models.

Further, as the Commission is aware, domestic SG&A for each MCC is determined based on the same total cost to revenue percentage. That is, there is no real differences in Dongkuk's domestic SG&A for different models. Any differences in the unit domestic SG&A between MCCs are merely consequential to the revenue based allocation method and the per tonne based unit cost presentation.

As such, Dongkuk submits that the correct calculation method for the adjustment should be based on a comparison of the CTM. If CTMS is to be used, then the SG&A component should be based on the same surrogate MCC that formed the basis of the normal value calculation. This would ensure that the amount of difference so calculated correctly reflect the physical differences between the models, consistent with the purpose of the adjustment.

In relation to the second change, Dongkuk considers that the Manual's reference to "gross margin" should be applied in determining the appropriate level of profit. Gross margin, in its natural meaning, refers to the overall level of profit between revenue and the cost of goods sold. On the other hand, an OCOT profit margin represents a much narrower type of profit margin, effectively based only only sales which are profitable and recoverable on a *net profit* basis, which is not a gross margin. Therefore Dongkuk respectfully submit that the gross margin of all domestic sales should be adopted for the purpose of the adjustment calculation.

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Yours sincerely

Charles Zhan
Partner