



CUSTOMS ACT 1901 (Cth) - PART XV B

FINAL REPORT NO. 600
ACCELERATED REVIEW
OF THE DUMPING DUTY NOTICE APPLYING TO
CERTAIN STEEL REINFORCING BAR EXPORTED TO
AUSTRALIA FROM
THE REPUBLIC OF KOREA
BY
DONGKUK STEEL MILL CO., LTD.

27 May 2022

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ABBREVIATIONS

ACRS	Australasian Certification Authority for Reinforcing and Structural Steels Ltd
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
calendar year	1 January to 31 December
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	cost to make
CTMS	cost to make and sell
Customs Tariff (Anti-Dumping) Regulation	<i>Customs Tariff (Anti-Dumping) Regulation 2013</i>
Daehan	Daehan Steel Co Ltd
Dongkuk	Dongkuk Steel Mill Co., Ltd.
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
the goods	the goods the subject of the accelerated review (also referred to as the goods under consideration)
IDD	interim dumping duty
InfraBuild	InfraBuild Steel
the Manual	<i>Dumping and Subsidy Manual - December 2021</i>
MCC	model control code
NIP	non-injurious price
the notice	the dumping duty notice
OCOT	ordinary course of trade
rebar	certain steel reinforcing bar (also referred to as the goods)
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 264	<i>Anti-Dumping Commission Report No. 264</i>
REP 566	<i>Anti-Dumping Commission Report No. 566</i>
REQ	response to the exporter questionnaire
the review period	1 January 2021 to 31 December 2021
review period for Review 566	the period examined in Review 566 being the period 1 July 2019 to 30 June 2020
RIQ	response to importer questionnaire
ROK	Republic of Korea
SG&A	selling, general and administration

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steel reinforcing bar	certain steel reinforcing bar (also referred to as the goods)
USP	unsuppressed selling price

1. SUMMARY AND RECOMMENDATIONS

1.1 Introduction

On 18 February 2022, Dongkuk Steel Mill Co., Ltd. (Dongkuk, the applicant) made an application to the Commissioner of the Anti-Dumping Commission (the Commissioner), seeking an accelerated review of the dumping duty notice (the notice) applying to certain steel reinforcing bar (rebar, or the goods) exported to Australia from the Republic of Korea (ROK).¹

Dongkuk's application sought an accelerated review on the basis that it is a new exporter and that the notice is inappropriate insofar as it applies to Dongkuk because it is currently subject to the 'Uncooperative and all other exporters' rate of interim dumping duty (IDD) of 8.5%. This rate reflects the rate for 'All other exporters' as initially determined by the then Minister following *Anti-Dumping Commission Report No. 264* (REP 264)², and most recently updated to the current rate of 8.5% in the most recent review of measures in *Anti-Dumping Commission Report No. 566* (REP 566).³

The Anti-Dumping Commission (commission) has assessed Dongkuk's variable factors relevant to the notice, which include the export price, normal value and non-injurious price (NIP).

In this accelerated review, the commission has calculated the export price and normal value and determined a dumping margin of **negative 1.9%** in respect of the goods from Dongkuk for the review period.

The commission has also found that the NIP in respect of exports by Dongkuk during the review period is less than the ascertained normal value of the goods. This means that the Minister must have regard to the desirability of specifying a duty method such that the ascertained export price of the goods and IDD do not exceed the NIP under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).⁴ In this instance, the ascertained export price exceeds the NIP. As a result, the prescribed methods under the Dumping Duty Act constrain the application of the lesser duty rule in these circumstances. Therefore, the commission recommends the use of the most appropriate duty method, which it considers to be the floor price duty method, with the floor price equal to the ascertained normal value of the goods.

The Commissioner recommends that the Minister alter the notice, so as to apply to Dongkuk, as if different variable factors had been fixed, and that the IDD be worked out in accordance with the floor price duty method. The floor price duty method ensures that a duty would only be paid if the goods are sold at an export price below the floor price. The commission considers that, in these particular circumstances, the floor price duty method is sufficient to ensure that the applicant will only pay duty if the goods are sold into Australia at dumped prices.

¹ Electronic public record (EPR) for case 600, document no. 1.

² EPR 264, document no. 98.

³ EPR 566, document no. 26.

⁴ Referred to as the lesser duty rule.

This report sets out the facts on which the Commissioner is basing these recommendations to the Minister.

1.2 Applicant's claims

Dongkuk submits in its application that it did not export the goods during the period subject to the original investigation (Investigation 264), in which the current measures were first imposed.⁵

The measures were continued and revised following Continuation Inquiry 546.⁶ Subsequently, the revised measures were subject to review by the Anti-Dumping Review Panel (ADRP). Due to the ADRP's recommendations the then Minister for Industry, Science and Technology, revised the normal value calculation applied to 'Uncooperative and all other exporters' from the ROK.⁷ The Minister revised the measures following Review 566.⁸ Dongkuk submits via its application that the IDD in the notice was calculated using variable factors based on those of an unrelated exporter, Daehan Steel Co Ltd (Daehan), rather than its own variable factors.

Dongkuk's application seeks an accelerated review, on the basis that it is a new exporter and that the notice is inappropriate, so far as Dongkuk is concerned.

1.3 Findings

The commission has confirmed that Dongkuk did not export the goods to Australia during the period subject to the original investigation (Investigation 264).⁹ Dongkuk is therefore a 'new exporter' as defined in section 269T(1) of the *Customs Act 1901* (the Act).¹⁰

Based on all relevant and available information, the Commissioner, in relation to the variable factors for Dongkuk's exports of the goods to Australia, considers that:

- the export price for sales made directly to the Australian customer should be determined under section 269TAB(1)(a)
- the export price for sales made indirectly to Australian customers through the ROK trader should be determined under section 269TAB(1)(c)
- the normal value should be determined pursuant to section 269TAC(1) with relevant adjustments under section 269TAC(8)
- the dumping margin determined pursuant to section 269TACB(2)(a) is negative 1.9%
- the NIP has changed since it was last ascertained by the Minister in respect of exports by Dongkuk during the review period
- the amount of IDD payable be calculated using the floor price duty method.

⁵ EPR 264, document no. 98, period of investigation was 1 July 2013 to 30 June 2014.

⁶ EPR 546, document no. 37.

⁷ ADRP Report 2021/130.

⁸ EPR 566, document no. 26.

⁹ EPR 264, document no. 98.

¹⁰ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

1.4 Application of law to facts

Division 6 of Part XVB of the Act enables new exporters to apply for an accelerated review of anti-dumping measures. This Division, amongst other matters:

- sets out the procedures to be followed and the matters to be considered by the Commissioner when conducting accelerated reviews for the purpose of making a report to the Minister, and
- enables the Minister, after consideration of such reports, to leave the notices unchanged, or to modify them as it applies to the applicant.

1.5 Recommendations

Based on the above findings and pursuant to section 269ZG(1)(b) the Commissioner recommends that the Minister alter the notice to apply to Dongkuk as if different variable factors had been fixed.

Further, the Commissioner recommends, in relation to Dongkuk's exports of the goods to Australia that:

- the Minister have regard to the desirability of applying the lesser duty rule, but be satisfied that it cannot be given effect in this instance
- the floor price method is the appropriate duty method to apply to Dongkuk's exports, and
- the Minister determine that the IDD be worked out in accordance with the floor price method, pursuant to section 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013* (Customs Tariff (Anti-Dumping) Regulation).

In practice, this approach means that if Dongkuk's actual export prices of the goods are less than the floor price calculated, the IDD payable will be equal to the difference between the actual export price and the ascertained normal value.

If the Minister accepts these recommendations, in order to give effect to the decision, the Minister must by public notice, declare that:

- the Act and the Dumping Duty Act shall have effect as if the dumping duty notice applied to Dongkuk, although different variable factors relevant to the determination of the duty shall be payable by Dongkuk, and
- pursuant to subsection 8(5B) of the Dumping Duty Act, the IDD payable on the goods exported to Australia from the ROK by Dongkuk is an amount worked out in accordance with the floor price duty method, as set out in subsection 5(4) of the Customs Tariff (Anti-Dumping) Regulation.

If accepted by the Minister, the recommendations applicable to Dongkuk will take effect retrospectively from 18 February 2022 (the date Dongkuk lodged its application). The Act enables duties to be applied retrospectively from the point of application. This legislative mechanism benefits the applicant by ensuring a lower rate of duty applies as soon as possible.

2 BACKGROUND

2.1 The goods

2.1.1 Description

The goods subject to anti-dumping measures, in the form of the notice, are set out in the table below.

Full description of the goods the subject of the application
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. The goods include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating. The goods do not include plain round bar, stainless steel and reinforcing mesh.
Further information
<p>The following categories of steel reinforcing bar are excluded from the goods:</p> <ul style="list-style-type: none"> • hot-rolled steel reinforcing bar with a continuous thread, commonly identified as ‘threadbar’ or ‘threaded-bar’, in straight lengths, complying with Australian/New Zealand Standard AS/NZS4671, grade 500N, with a 40 mm diameter; and • fully threaded hot-rolled prestressing steel reinforcing bar, in straight lengths, with a minimum yield strength of 885 MPa or greater, with a 26.5mm, 32mm, 36mm, 40mm or 50mm diameter.

Table 1 – The goods description

Further information on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission’s (the commission) website, www.adcommission.gov.au.

2.1.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* (Cth):¹¹

Tariff subheading	Statistical code	Description
7213	BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF IRON OR NON-ALLOY STEEL	
7213.10.00	42	Containing indentations, ribs, grooves or other deformations produced during the rolling process
7214	OTHER BARS AND RODS OF IRON OR NON-ALLOY STEEL, NOT FURTHER WORKED THAN FORGED, HOT-ROLLED, HOT-DRAWN OR HOT-EXTRUDED, BUT INCLUDING THOSE TWISTED AFTER ROLLING	

¹¹ These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes is for reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

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Tariff subheading	Statistical code	Description
7214.20.00	47	Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling
7227	BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF OTHER ALLOY STEEL	
7227.90	Other	
7227.90.10	69	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(l) to Chapter 72
7227.90.90	01	<i>Containing indentations, ribs, grooves or other deformations produced during the rolling process</i>
	02	<i>Of circular cross-section measuring less than 14 mm in diameter</i>
	04	<i>Other</i>
7228	OTHER BARS AND RODS OF OTHER ALLOY STEEL; ANGLES, SHAPES AND SECTIONS, OF OTHER ALLOY STEEL; HOLLOW DRILL BARS AND RODS, OF ALLOY OR NON-ALLOY STEEL	
7228.30	Other bars and rods, not further worked than hot-rolled, hot-drawn or extruded	
7228.30.10	70	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(m) to Chapter 72
7228.30.90	40	Containing indentations, ribs, grooves or other deformations produced during the rolling process
7228.60	Other bars and rods	
7228.60.10	72	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(m) to Chapter 72

Table 2 – Tariff classifications of the goods

2.2 Accelerated reviews

The legislative framework that underpins the making, and the Commissioner's consideration, of an application for an accelerated review of dumping and countervailing duty notices is contained in Divisions 1 and 6 of Part XVB of the Act.

If the Commissioner does not reject an application, or terminate an accelerated review, the Commissioner must, no later than 100 days after the application was lodged, provide the Minister a report recommending that the dumping duty notice and/or countervailing duty notice the subject of the application:¹²

(a) remain unaltered¹³ or

¹² Section 269ZG(2).

¹³ Section 269ZG(1)(a).

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(b) be altered so as to apply to the applicant as if different variable factors had been fixed¹⁴

and set out the reasons for so recommending.¹⁵

Following the Minister's decision, the commission will publish a notice on its website advising of the decision.¹⁶

2.3 Existing measures

2.3.1 History

The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science initially imposed the anti-dumping measures, in the form of a dumping duty notice, published on 19 November 2015, after consideration of REP 264.¹⁷

The commission has conducted numerous cases relating to rebar. A list of the major relevant cases is set out in Table 3. This summary includes cases relating to all exporters from the ROK, and excludes exemption and accelerated review inquiries. Further information regarding the measures on rebar is also available on the commission's EPR.¹⁸

Case type	Case number	ADN number	Outcome
Investigation	264	2015/133	Imposition of measures
Anti-circumvention – ROK	452	2018/52	Termination of the inquiry
Review – ROK and Taiwan	486 and 489	2019/54	Changes to the variable factors in relation to exporters from the ROK and Taiwan
Continuation Inquiry	546	2020/111	Continuation of measures and changes to the variable factors in relation to exporters from the ROK and Spain. Measures cease to apply for exporters from Singapore and Taiwan (except Power Steel Co. Ltd)
ADRP Review of Inquiry 546 and Reinvestigation	ADRP 2020/130	ADRP Public Notice 2020/130	Changes to the variables factors in relation to exporters from the ROK
Review – ROK and Spain (except Nervacero SA)	566	2021/150	Changes to the variables factors in relation to exporters from the ROK and Spain (except Nervacero SA)

Table 3 – Major cases involving rebar from the ROK

¹⁴ Section 269ZG(1)(b).

¹⁵ Section 269ZG(1).

¹⁶ Section 269ZG(3).

¹⁷ Available on the commission's website, EPR 264.

¹⁸ Available on the commission's website.

2.3.2 Reviews of measures

On 16 December 2021, the Minister revised the variable factors and effective rates of duty applicable to the goods following a review of anti-dumping measures as they affect exporters from ROK following REP 566.¹⁹ Dongkuk is currently subject to the all other exporters rate of 8.5%, while its application for accelerated review is being considered.²⁰ Table 4 outlines the measures in place on exporters of the goods from the ROK at the time the Commissioner provided this report to the Minister on 27 May 2022.

Country	Exporter	Fixed component of IDD (%)	Form of measures
ROK	Daehan	4.7%	Combination
	Uncooperative and all other exporters	8.5%	

Table 4 – Current rates of IDD

Further details of the measures in place on exports from ROK are available in the Dumping Commodity Register on the commission's website.

2.4 Notification and participation

On 18 February 2022, Dongkuk lodged an application for an accelerated review of a duty dumping notice applying to certain steel reinforcing bar exported to Australia from ROK insofar as the notice affects Dongkuk.

The Commissioner considered the application to determine if it was made in accordance with sections 269ZE and 269ZF. The Commissioner did not reject the application because:

- the circumstances in which an accelerated review can be sought under section 269ZE(1) were satisfied
- the conditions for rejection under section 269ZE(2) were not satisfied, and
- the application satisfied the requirements of section 269ZF(1).

ADN No. 2022/022 outlines the commencement of this accelerated review. The commission published ADN No. 2022/022 on 10 March 2022 on the public record on the commission's website. ADN No. 2022/022 provides information about the decision not to reject Dongkuk's application.²¹

ADN No. 2022/022 advised that the Commissioner would make a recommendation to the Minister in a report on, or before, **29 May 2022**.²²

For the purposes of this accelerated review, the period of examination for Dongkuk's exports is 1 January 2021 to 31 December 2021 (the review period).

¹⁹ Refer to REP 566 and Anti-Dumping Notice (ADN) No. 2021/150.

²⁰ Section 269ZH.

²¹ Section 2.6 refers.

²² As this date falls on a Sunday, the recommendation is due on Monday, 30 May 2022.

2.5 Information gathered

2.5.1 Exporter questionnaire

Upon the commencement of the accelerated review, the commission sent an exporter questionnaire to Dongkuk for completion. The commission provided Dongkuk an extension of time to provide a response to the exporter questionnaire.

On 6 April 2022, the commission received the completed response to the exporter questionnaire (REQ) from Dongkuk. A non-confidential version of the REQ is available on the public record.²³

Dongkuk cooperated with the accelerated review and provided financial data in its REQ within the required timeframe.

2.5.2 Verification of exporter questionnaire

The commission verified Dongkuk’s REQ in May 2022. During verification, the commission examined data relating to Dongkuk’s sales and production of the goods and like goods.²⁴ The commission outlines the findings in relation to specific matters below.

Following the verification of Dongkuk’s REQ, the commission was satisfied, with the exception of certain information detailed in the table below, that the information provided by Dongkuk was relevant, complete and accurate, and therefore suitable for ascertaining the variable factors applicable to Dongkuk’s exports of the goods.

Exception No	Description	Resolution
1	Dongkuk’s quarterly model control code (MCC) data for each cost to make (CTM) listing included CTM for some internal product codes whereby the product codes did not necessarily apply to the relevant market (i.e. the domestic or Australian market) during the review period.	Dongkuk provided revised domestic CTM and Australian CTM listings as well as other information, resulting in the CTM listings only including data corresponding to internal product codes sold in the relevant market during the review period.
2	Dongkuk used a non-final figure for one of its account codes in the selling, general and administration (SG&A) listing.	Dongkuk provided an updated SG&A listing using the finalised figure for the relevant account code. The commission confirmed that the updated SG&A listing figures reconciled to Dongkuk’s trial balance.
3	Dongkuk allocated the entirety of its miscellaneous revenue and miscellaneous loss accounts as values to include in the SG&A expense calculation. The commission identified certain items in these accounts that neither directly nor indirectly related to the production or sale of the goods.	The commission excluded certain miscellaneous revenue and miscellaneous loss account items from the SG&A expense calculation associated with production plants not involved in production of the goods. The commission also excluded certain account items based on the item description recorded in Dongkuk’s accounting system, following discussion with Dongkuk about the purpose of these items.

²³ EPR 600, document no. 4.

²⁴ Refer to Chapter 2 of the Manual for the commission’s methodology for determining like goods.

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Exception No	Description	Resolution
4	Dongkuk recorded scrap offset by pricing scrap using a standard (i.e. not actual) unit price. Dongkuk applied this standard scrap unit price to all scrap generated during production of the goods in the review period.	Dongkuk demonstrated the total actual sales price and quantity of steel scrap it generated during production of the goods in the review period. The commission calculated the variance between the standard and actual unit prices of scrap generated during the review period and applied this variance as an adjustment to the scrap offset total in all lines in the cost data underlying the CTM listings. The commission therefore ensured that the scrap offset was reflective of actual costs in the CTM listings.

Table 5 – Exceptions and resolutions identified during verification

Dongkuk’s exporter verification work program at **Confidential Attachment 1** details the commission’s findings and conclusions regarding the verification of Dongkuk’s REQ.

2.5.3 Importer questionnaire

Upon the commencement of the accelerated review, the commission sent importer questionnaires to 3 importers.

On 14 April 2022, the commission received the completed response to the importer questionnaire from Macsteel International Australia (Macsteel).

The commission selected a sample of 4 consignments during the review period, as reported in the Australian Border Force (ABF) import database, for sample verification. The commission verified Macsteel’s response to the importer questionnaire (RIQ) to examine (amongst other things) the costs and sales relating to its imports of the goods from Dongkuk’s sales into the Australian market.

The commission found that the data relevant to Macsteel’s imports and sales of the goods was reliable, after rectifying issues identified. The commission sought further information in relation to inland freight expenses and the allocation method used. Macsteel provided a sufficient response, which resolved those issues. The commission conducted limited verification of sales, SG&A costs²⁵, as well as data concerning costs to import and sell. The commission did not identify any issues during this process.

Confidential Attachment 2 details the findings and conclusions relating to the sample verification of the data contained in Macsteel’s RIQ.

2.5.4 Trader questionnaire

Upon the commencement of the accelerated review, the commission became aware that Dongkuk made export sales directly to customers based in Australia or indirectly via ROK traders. To understand the costs and sales relating to these export sales from Dongkuk, the commission sent a trader questionnaire to one ROK trader.

²⁵ Verified as part of Continuation Inquiry 594 which has the same inquiry period.

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On 4 April 2022, the commission received the completed response to the trader questionnaire from the ROK trader LAVA Corporation (LAVA). A non-confidential version of the questionnaire response is available on the public record.²⁶

The commission conducted sample verification of LAVA's export sales and did not identify any issues during this process. Given that the commission verified Dongkuk's REQ in May 2022, the commission did not conduct any further verification of LAVA's questionnaire response.

Confidential Attachment 3 details the findings and conclusions relating to the sample verification of the export sales data contained in LAVA's questionnaire response.

2.6 Public record

There is no legislative requirement in the Act for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring an open and transparent process, a public record for this accelerated review is accessible on the commission's website at www.adcommssion.gov.au.

2.7 Submissions

ADN No. 2022/022, published on 10 March 2022, invited interested parties to lodge submissions concerning this accelerated review by 11 April 2022.²⁷

The commission received one submission before 11 April 2022 and another submission on 16 May 2022 from InfraBuild Steel (InfraBuild).^{28 29}

InfraBuild submitted³⁰ that while Dongkuk did not export the goods to Australia during the original investigation period, the exporter has become a regular exporter of rebar to Australia in recent years.

InfraBuild provided³¹ confidential export volume and price data to the commission and stated that, based on this data, it would be inappropriate to rely on Daehan's export price to determine the ascertained export price for Dongkuk. The commission verified Dongkuk's REQ data, including export prices during its verification process. As such, the commission did not rely on Daehan's export price to ascertain Dongkuk's export price. Relevantly, the commission used Dongkuk's verified information to ascertain its export price.

InfraBuild submitted³² that rebar exported from the ROK might have been misclassified as rod in coil. InfraBuild asked the commission review these exports to ensure the completeness of export sales to Australia provided by Dongkuk or LAVA. The commission verified Dongkuk's REQ export sales data and found it to be complete, relevant and accurate.

²⁶ EPR 600, document no. 5.

²⁷ EPR 600, document no. 2.

²⁸ EPR 600, document no. 3.

²⁹ EPR 600, document no. 6.

³⁰ EPR 600, document no. 3.

³¹ Ibid.

³² EPR 600, document no. 6.

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InfraBuild also provided³³ a list of potential traders that Dongkuk might use to export rebar to Australia. The commission relied on Dongkuk’s REQ and verified information to determine whether export sales to Australia were made directly to customers based in Australia or via traders. InfraBuild recommended³⁴ that the commission determine Dongkuk’s export price for sales made directly to Australian customers under section 269TAB(1)(a) and determine Dongkuk’s export price for sales made via traders under section 269TAB(1)(c).

InfraBuild stated³⁵ that the assessment of normal value should include an assessment of the models sold in the ROK and those exported to Australia, noting that differences in physical characteristics can give rise to differences in price. Based on Dongkuk’s Australasian Certification Authority for Reinforcing and Structural Steels Ltd (ACRS) accreditation certificate, InfraBuild asserted that Dongkuk has an ACRS accreditation for rebar in coiled form in diameters of 10, 12 and 16mm and provided a list of the ROK grades it considered most alike the Australian grades. The commission has used a MCC structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values. The commission explains the practice and basis for using a MCC structure in the *Dumping and Subsidy Manual* (the Manual).³⁶ The commission requested interested parties participating in this review to provide sales and cost data in accordance with the MCC structure detailed in Table 6.

Item	Category	Sub-category	Identifier	Sales Data	Cost Data
1	Prime	Prime	P	Mandatory	N/A
		Non-Prime	N		
2	Minimum yield strength specified by product standard (Mega Pascals or “MPa”)	Less than or equal to 300	A	Mandatory	Mandatory
		Greater than 300 but less than or equal to 480	B		
		Greater than 480 but less than 550	C		
		Equal to or greater than 550	D		
3	Finished form	Rebar in length/straight	S	Mandatory	Mandatory
		Rebar in coil	C		
4	Nominal diameter (millimetres or “mm”)	Less than 12	A	Mandatory	Optional
		Greater than or equal to 12 and less than or equal to 16	B		
		Greater than 16 and less than or equal to 32	C		
		Greater than 32 and less than or equal to 50	D		
5	Length (metres or “m”)	Less than or equal to 6	1	Mandatory	Optional

³³ EPR 600, document no. 3.

³⁴ EPR 600, document no. 6.

³⁵ EPR 600, document no. 3.

³⁶ Dumping and Subsidy Manual - December 2021.

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Item	Category	Sub-category	Identifier	Sales Data	Cost Data
		Greater than 6 and less than or equal to 12	2		
		Greater than 12	3		
		Coil product	C		
6	Deformation pattern along Length	Threaded	T	Mandatory	Optional
		Non-Threaded	N		

Table 6 – MCC structure

The MCC structure used by the commission includes separate identifiers for the nominal diameters and for different minimum yield strengths (or grades) that InfraBuild stated in its submission³⁷. Therefore, the commission took the cost and price differences reflected in the MCC categories between different domestic and export models into account in comparing export price and normal value.

Finally, InfraBuild recommended that should the commission determine a positive dumping margin for Dongkuk, the form of measures for Dongkuk be consistent with the form of measures currently applying to exports from all other exporters from the ROK, being the combination duty method. As the commission did not find a positive dumping margin for Dongkuk, the combination duty method is not appropriate. Detail of the commission’s considerations regarding methods can be found in chapter 7(Form of Measures).

³⁷ EPR 600, document no. 3.

3 EXPORT PRICE

3.1 Finding

During the review period, Dongkuk sold the goods to Australian customers, both directly to the Australian customer, and indirectly to the Australian customer via a ROK trader.

In relation to the sales made directly to the Australian customer, the commission recommends that the export price be determined under section 269TAB(1)(a), as the price paid (or payable) for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation.

For the sales made to Australian customers via the ROK trader, the commission recommends that the export price be determined under section 269TAB(1)(c), having regard to all circumstances of the exportation. Specifically, the commission recommends that the export price be the price charged by Dongkuk to the ROK trader.

3.2 The importers

With respect to the sales that Dongkuk made directly to Australian customers, the commission finds that the importer is the Australian customer named on the commercial invoice, as the Australian customer is also:

- named as the buyer on the sales contract
- named as the consignee on the bill of lading, and
- declared as the importer on the importation declaration to the Australian Border Force (ABF).

In terms of the sales that Dongkuk made to Australian customers via a ROK trader, the commission also finds that the Australian customer is the importer, as the Australian customer is:

- named as the buyer on the sales contract
- named as the consignee on the bill of lading, and
- declared as the importer on the importation declaration to the ABF.

The commission finds that for all Australian sales, the Australian customer is the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they have landed.

3.3 The exporter

The commission considers Dongkuk to be the exporter of the goods,³⁸ as Dongkuk is:

- the manufacturer of the goods located in the country of export, knowing that the goods are destined for Australia
- named on relevant commercial documentation as the supplier (e.g. commercial invoices and purchase orders), and

³⁸ The commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

- responsible for arranging and paying for the inland transport to the port of export.

3.4 Arms length assessment

When determining export prices under section 269TAB(1)(a), the Act requires that the relevant sales comprise 'arms length' transactions.

Section 269TAA outlines the circumstances in which the prices paid (or payable) shall not be treated as being at arms length. These are where:

- there is any consideration payable for, or in respect of, the goods, other than price
- the price appears to be influenced by a commercial or other relationship between the buyer (or an associate of the buyer) and the seller (or an associate of the seller)
- in the opinion of the Minister, the buyer (or an associate of the buyer) will, directly (or indirectly), be reimbursed, compensated, or otherwise receive a benefit for, or in respect of, the whole (or any part of) the price.³⁹

Dongkuk sold only to unrelated customers during the review period, in the Australian market. In respect of Dongkuk's Australian sales of the goods, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price appeared to be influenced by a commercial or other relationship between the buyer (or an associate of the buyer) and the seller (or an associate of the seller)
- the buyer (or an associate of the buyer) was directly (or indirectly) reimbursed, compensated, or otherwise received a benefit for, or in respect of, the whole (or any part of) the price.

The commission therefore considers that all export sales made by Dongkuk to its Australian customers during the period comprised arms length transactions.⁴⁰

3.5 Conclusion

With respect to the sales made directly to the Australian customer, the commission recommends that the export price be determined under section 269TAB(1)(a), as the price paid (or payable) for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation.

In relation to the sales made to Australian customers via the ROK trader, the commission notes that the importer did not purchase the goods from the exporter. Accordingly, the commission cannot determine export price under sections 269TAB(1)(a) or 269TAB(1)(b).

The commission therefore recommends that the export price be determined under section 269TAB(1)(c), having regard to all circumstances of the exportation. Specifically, the commission recommends that the export price be the price charged by Dongkuk to the ROK trader.

The commission's export price calculations are at **Confidential Appendix 1**.

³⁹ Refer to Chapter 5 of the Manual for the commission's approach to assessment of arms length transactions.

⁴⁰ Section 269TAA refers.

4 NORMAL VALUE

4.1 Finding

The commission found that there were sufficient domestic sales that were arms length transactions and sold at prices that are in the ordinary course of trade (OCOT).⁴¹ Accordingly, the commission has ascertained the normal value in accordance with section 269TAC(1).

4.2 Assessment of domestic sales

Section 269TAC(1) provides the general rule for calculating normal value. For sales to be relevant for the purpose of section 269TAC(1), they must be sales of like goods, sold in the exporter's domestic market for home consumption that are at arms length and in the OCOT.

4.3 Arms length assessment

During the review period, Dongkuk sold the goods only to unrelated customers in the domestic market. In respect of Dongkuk's domestic sales of like goods to its unrelated customers during the period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price appeared to be influenced by a commercial or other relationship between the buyer (or an associate of the buyer) and the seller (or an associate of the seller)
- the buyer (or an associate of the buyer) was not directly (or indirectly) reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole (or any part of) the price.

The commission therefore considers that all domestic sales made by Dongkuk to its domestic customers during the period comprised 'arm's length' transactions.

4.4 Ordinary course of trade

Section 269TAAD provides that domestic sales of like goods need not be taken to be prices paid in the OCOT if the arms length transactions are both:

- unprofitable in substantial quantities over an extended period, and
- unlikely to be recoverable within a reasonable period.⁴²

The commission tested the profitability of the sales by comparing the net invoice price against the relevant cost for each domestic sales transaction.

The commission then tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the period.

⁴¹ Section 269TAAD.

⁴² In general, the commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

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The commission tested recoverability by comparing the net invoice price against the relevant weighted average cost over the period for each domestic sales transaction.

The following table sets out further detail:

OCOT particulars	Details
Price	Net invoice price.
Cost	Quarterly cost to make and sell, including direct selling expenses for each transaction.
Weighted average cost	Weighted average cost to make and sell over the period, including direct selling expenses for each transaction.

Table 7 – OCOT details

4.5 Volume of relevant sales

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export.

An exporter’s domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

The commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of domestic sales was 5% or greater and, therefore, was not a low volume.

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market. Where the volume of domestic sales of an exported MCC is less than 5% of the volume exported, the commission will consider whether it can make a proper comparison at the MCC level. In these situations, the commission may consider whether it should use a surrogate domestic MCC to calculate normal value for the exported MCC.

The table below details this analysis.

Export MCC	Is volume of domestic sales of same MCC 5% or greater as a proportion of export volume?	Treatment of normal value
P-C-C-A-C-N	Y	Sufficient volume. No need for surrogate MCC.
P-C-C-B-C-N	Y	Sufficient volume. No need for surrogate MCC.

Table 8 – Domestic volumes

4.6 Adjustments to normal value

To ensure the normal value is comparable to the export price of goods exported to Australia at free-on-board (FOB) terms, the commission has considered the following adjustments.

4.6.1 Rationale and method

Adjustment type	Rationale for adjustment	Calculation method and evidence	Claimed in REQ?	Adjustment required?
Domestic credit terms	Payment terms differ for export and domestic sales.	The commission used the payment days relevant to the sales, and Dongkuk's average short term borrowings rate. The commission verified this information in Dongkuk's accounting system.	Yes	Yes
Domestic inland transport	Domestic inland transport costs are different to export inland transport costs.	The commission calculated domestic inland transport with reference to relevant invoices and Dongkuk's accounting system.	Yes	Yes
Export inland transport	Export inland transport costs are different to domestic inland transport costs.	The commission calculated export inland transport with reference to relevant invoices and Dongkuk's accounting system.	Yes	Yes
Export port handling and other charges	Export sales incur port handling and other port related charges, whereas domestic sales do not.	The commission calculated these charges with reference to relevant invoices and Dongkuk's accounting system.	Yes	Yes
Export bank charge	Export sales incur bank charges, whereas domestic sales do not.	The commission calculated bank charges with reference to relevant payment receipts and Dongkuk's accounting system.	Yes	Yes

Table 9 – Assessment of adjustments

4.6.2 Adjustments

The commission considers the following adjustments under section 269TAC(8) are necessary to ensure that the normal value so ascertained is properly compared with the export price of those goods.

Adjustment type	Deduction/addition
Domestic credit terms	Deduction
Domestic inland transport	Deduction
Export inland transport	Addition
Export port handling and other charges	Addition
Export bank charge	Addition

Table 10 – Summary of adjustments

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The commission's adjustment calculations are included in normal value calculations at **Confidential Appendix 3**.

4.7 Conclusion

The commission found that there were sufficient volumes of sales of like goods sold for home consumption in the country of export that were arms length transactions and at prices that were within the OCOT. The commission is therefore not satisfied that there is an absence, or low volume, of sales for the purpose of determining normal value under section 269TAC(1).

When using domestic sales as a basis for normal value, the commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary. These adjustments ensure that differences between the normal value of goods exported to Australia and the export price of the exported goods would not affect comparison of domestic prices with export prices, as outlined in chapter 4.6.2 above.

The commission's normal value calculations are at **Confidential Appendix 3**.

5 DUMPING MARGIN

5.1 Findings

The commission has calculated a dumping margin by comparing the export price with the corresponding normal value in accordance with section 269TACB(2)(a).

The dumping margin in respect of the goods for Dongkuk is **negative 1.9%**.

The dumping margin calculation is at **Confidential Appendix 4**.

6 NON-INJURIOUS PRICE

6.1 Finding and recommendation

The commission has found that the NIP changed in respect of the goods exported to Australia in the review period.

The commission also found that the NIP of the goods is less than the ascertained normal value of the goods. This means that the Minister must have regard to the desirability of specifying a duty method such that the ascertained export price of the goods and IDD do not exceed the NIP under the Dumping Duty Act. In this instance, the ascertained export price exceeds the NIP. The prescribed methods under the Dumping Duty Act constrain the application of the lesser duty rule in these circumstances, therefore, the commission recommends the use of the most appropriate duty method, which it considers to be the floor price duty method, with the floor price equal to the ascertained normal value of the goods.

The commission considers that, in these particular circumstances, the floor price duty method is sufficient to ensure that the applicant will only pay duty if it lowers its export price and sells the goods into Australia at dumped prices.

6.2 Non-injurious price

Section 269TACA defines the NIP as ‘the minimum price necessary ... to prevent the injury, or a recurrence of the injury’ caused by the dumped goods. The NIP is ordinarily determined by having regard to the Australian industry’s selling prices from a period when the industry is not affected by dumping.

6.3 Lesser duty rule

The calculation of the NIP is relevant for the purposes of the lesser duty rule under the Dumping Duty Act.⁴³

Where the NIP of the goods is less than the normal value of the goods, the Minister must also have regard to the lesser duty rule. The lesser duty rule requires the Minister to have regard to the desirability of specifying a duty method such that the ascertained export price of the goods and IDD do not exceed the NIP.

Pursuant to sections 8(5BAA) and 8(5BAAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule in certain circumstances. Neither of those circumstances (being the composition of the Australian industry or the method of ascertaining normal value in circumstances of a particular market situation in the country of export) are relevant to this accelerated review.

On the basis that no exceptions apply, the Minister is required to consider imposing a lesser amount of duty where the NIP is less than the normal value of the goods.

⁴³ Section 8(5B) of the Dumping Duty Act.

6.4 Establishing an unsuppressed selling price and a NIP

The commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping, referred to as the unsuppressed selling price (USP).

When establishing the USP and NIP as part of an accelerated review, the commission will generally not depart from the approach taken in the original investigation or previous review, unless there has been a change in circumstances that either makes the earlier USP approach unreasonable, or less preferred amongst other available options.

The Manual provides that, when determining the USP using a constructed method, the commission prefers using a weighted average of the most recent verified Australian industry CTMS for at least one year. This allows for fluctuations for seasonal or longer cyclical trends to be taken into account. The most recent verified Australian industry CTMS was for Continuation Inquiry 564 and was for the period 1 January 2019 to 31 December 2019 (calendar year 2019). The last review, undertaken in relation to exports of the goods was Review 566, which examined the period 1 July 2019 to 30 June 2020 (review period for Review 566). The commission's consideration regarding whether a change in circumstances has occurred since that review is set out below.

As outlined in REP 566, the commission calculated an USP, being the sum of InfraBuild's CTMS data and a reasonable amount for profit, using verified data from Continuation Inquiry 564. InfraBuild's verified CTMS data was for calendar year 2019 and the profit margin data comprised projections for the period July to September 2020. The commission considers it reasonable that circumstances arising from the COVID-19 pandemic would have affected the CTMS for rebar. On 7 March 2022, InfraBuild submitted to the commission an application for the continuation of the anti-dumping measures (Continuation Inquiry 601) claiming that rebar exported to Australia was at dumped prices. As part of Continuation Inquiry 601, InfraBuild has provided unverified CTMS and profit data for calendar year 2021.

The inquiry period for Continuation Inquiry 601 and the review period for this accelerated review are both calendar year 2021. The commission compared the unverified CTMS data for calendar year 2021 with the verified CTMS data for calendar year 2019, after adjusting the 2019 data with a timing adjustment using Australia's iron smelting and steel manufacturing sector's producer price index data from the Australian Bureau of Statistics.⁴⁴ This comparison found that the weighted average unit CTMS for the review period was comparable between the verified and unverified CTMS data. Because of the data provided for Continuation Inquiry 601 and the comparative analysis conducted by the commission, the commission considers that there is more relevant and/or more contemporaneous data available for establishing an USP. Therefore, the commission considers using the earlier USP from Review 566 is less preferred amongst the available options.

The commission considers it appropriate to use the more contemporaneous data to calculate an USP and to follow the same constructed methodology used to calculate the NIP in Review 566, on the basis that the market conditions identified in the period examined in Review 566 also appear to be present in the relevant period of this review.

⁴⁴ Australian Bureau of Statistics, Producer Price Indexes, Australia (ABS cat. No. 6427.0).

6.4.1 Calculation of the USP

Chapter 24 of the Manual sets out the commission's preferred approach to establishing the USP, and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping
- constructed industry prices – industry cost to make and sell plus profit, or
- selling prices of un-dumped imports.

As outlined in REP 566, the commission found that the goods exported to Australia from the ROK were dumped. The commission considered that the Australian industry selling prices of like goods were affected by the presence of dumped imports in the market during the review period for Review 566. The commission is currently conducting Continuation Inquiry 601 to examine whether to continue anti-dumping measures following InfraBuild's claim that rebar was being exported to Australia at dumped prices. As the inquiry period for Continuation Inquiry 601 and the review period for this accelerated review are both calendar year 2021, the commission considers that Australian industry selling prices are not unaffected by dumping during the review period for this accelerated review and therefore the first method under the Manual's hierarchy is unsuitable.

Consistent with the approach in Review 566, the commission calculated the USP according to the second method under the Manual's hierarchy, being the sum of:

- InfraBuild's CTMS for the review period (calendar year 2021)
- a reasonable amount for profit based on InfraBuild's projected and actual profit and loss for its rod and bar division for the period January 2022 to June 2022 sourced from management reports.

The commission's USP calculation is at **Confidential Attachment 4**.

6.4.2 Calculation of the NIP

Having calculated the USP, the commission then calculates a NIP by deducting the costs incurred in getting the goods from the export Free on Board point to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit. In making these deductions, the commission relied on verified data from Continuation Inquiry 594 as well as verified data received as part of this accelerated review. The commission's NIP calculation is at **Confidential Attachment 4**.

6.5 The commission's assessment

The commission compared the NIP with the ascertained normal value of the goods exported to Australia by Dongkuk. The commission found that the NIP is less than the ascertained normal value of the goods.

As the NIP is below the ascertained normal value of goods exported by Dongkuk, the Minister must consider the desirability of specifying a duty method such that the ascertained export price of the goods and IDD do not exceed the NIP. In this instance, the ascertained export price exceeds the NIP. The prescribed methods under the Dumping Duty Act constrain the application of the lesser duty rule in these circumstances, therefore, the commission recommends the use of the most appropriate duty method, which it considers to be the floor price duty method, with the floor price equal to the ascertained normal value of the goods.

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The commission considers that, in these particular circumstances, the floor price duty method is sufficient to ensure that the applicant will only pay duty if the goods are sold into Australia at dumped prices.

7 FORM OF MEASURES

7.1 Current form of measures

Dongkuk's exports of the goods are currently subject to the 'all other exporters' effective rate of duty of 8.5%. The current duty method is a combination of fixed and variable duty.⁴⁵

7.2 Recommended form of measures

The Commissioner recommends to the Minister that the IDD payable on the goods the subject of the dumping duty notice, in respect of Dongkuk, is an amount which will be worked out in accordance with the floor price duty method pursuant to subsection 5(4) of the Customs Tariff (Anti-Dumping) Regulation.

In considering the appropriate form of measures, the commission has had regard to the commission's *Guidelines on the Application of the Forms of Dumping Duty* (the guidelines)⁴⁶ and relevant factors in the rebar market.

Issues requiring consideration when determining the form of dumping duty are set out in the guidelines. The various methods for working out the dumping duty all have the purpose of removing injury caused by dumping. However, certain forms of duty will better suit particular circumstances than others.

The commission considers that, where it is found that an exporter has not dumped the goods as part of an accelerated review, the floor price duty method is the most appropriate form of duty.

In this case, the floor price will be set equal to the ascertained normal value, which is a specified (confidential) amount per metric tonne. In practice, this approach means that if Dongkuk's actual export prices of the goods remain unchanged from the export price during the review period, no IDD will be payable. However if Dongkuk exports at a price less than the floor price calculated, the IDD payable will be equal to the difference between the actual export price and the ascertained normal value.

⁴⁵ As determined in REP 566. Refer to ADN No. 2021/150.

⁴⁶ The guidelines are available on the commission's website.

8 EFFECT OF THE ACCELERATED REVIEW

If the Minister accepts the recommendations in this report, in respect of steel reinforcing bar exported by Dongkuk to Australia from the ROK:

- the notice will be altered, so as to apply to Dongkuk, as if different variable factors (export price, normal value and NIP) had been fixed
- the IDD paid (or payable) will be worked out using the floor price duty method.

If the Minister accepts the recommendations in this report, these changes will take effect retrospectively from 18 February 2022 (being the date Dongkuk lodged its application).

9 RECOMMENDATIONS

The Commissioner recommends that the Minister consider this report and declare:

- under section 269ZG(3)(b) that, with effect from 18 February 2022, relevant to the determination of duty for the purposes of the Act and the Dumping Duty Act, the dumping duty notice in relation to the goods exported to Australia from the ROK by Dongkuk is taken to have effect as if different variable factors had been fixed relevant to the determination of duty.

The Commissioner recommends that the Minister determine that:

- the export price of certain goods exported to Australia from the ROK by Dongkuk under section 269TAB(1)(a), is the price paid (or payable) for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in **Confidential Appendix 1**
- the export price of certain goods exported to Australia from the ROK by Dongkuk under section 269TAB(1)(c), having regard to all the circumstances of the exportation, as set out in **Confidential Appendix 1**
- the normal value of the goods exported to Australia from the ROK by Dongkuk under section 269TAC(1), is the price paid or payable for like goods sold in the OCOT for home consumption in the country of export in sales that are arms length transactions by the exporter, as adjusted in accordance with section 269TAC(8), as set out in **Confidential Appendix 3**
- in accordance with section 8(5B) of the Dumping Duty Act, that the IDD payable in respect of certain steel reinforcing bar exported to Australia from the ROK by Dongkuk is an amount which will be worked out in accordance with the floor price method pursuant to section 5(4) of the Customs Tariff (Anti-Dumping) Regulation.

The Commissioner recommends that the Minister direct that:

- in accordance with section 269TAC(8) of the Act, adjustments, as listed in Table 10, are necessary to ensure a fair comparison of normal values and export prices for the goods exported to Australia from the ROK by Dongkuk.

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10 ATTACHMENTS

Confidential Appendix 1	Export Price
Confidential Appendix 2	Cost to Make and Sell
Confidential Appendix 3	Normal Value
Confidential Appendix 4	Dumping Margin
Confidential Attachment 1	Dongkuk Exporter Verification Work Program
Confidential Attachment 2	Macsteel Importer Sample Verification
Confidential Attachment 3	LAVA Trader Sample Verification
Confidential Attachment 4	USP and NIP Calculations