

RESPONSE TO AN APPLICATION FOR EXEMPTION FROM DUTY UNDER THE *CUSTOMS TARIFF (ANTI-DUMPING) ACT 1975*

Exemption inquiry EX0072 – response requested by 4 March 2019.

1 Introduction

The Anti-Dumping Commission (the Commission) requests your response to an application for exemption from anti-dumping measures under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

Subsection 8(7)(a) of the Dumping Duty Act provides a discretion for the Minister for Industry, Science and Technology (the Minister) (or his or her delegate) to exempt goods from anti-dumping measures, where he or she is satisfied that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

The Commission has received an application for exemption from anti-dumping measures in respect of certain steel reinforcing bar (rebar) for the goods described at section 5 of this form (“the exemption goods”).

Your company has been identified as an Australian producer of the goods.

The Commission seeks your assistance in this exemption inquiry by responding to this questionnaire. The Commission will use the information you provide in its assessment as to whether an exemption from dumping duties may be recommended to the Minister for Industry, Science and Technology (the Minister).

2 Measures on Steel Reinforcing Bar (Rebar)

Anti-dumping measures in the form of a dumping duty notice were initially imposed on rebar exported to Australia from the People’s Republic of China (China) by public notice with an effective date of 14 April 2016¹ by the then Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science, following consideration of the *Anti-Dumping Commission Report No 300* (REP 300)². This notice is in effect for five years from 14 April 2016 to 13 April 2021.

Anti-dumping measures in the form of a dumping duty notice were imposed on rebar exported to Australia from Greece, the Republic of Indonesia (Indonesia), Spain (by Nervacero S.A), Taiwan (by Power Steel Co. Ltd) and the Kingdom of Thailand (Thailand) by public notice with an effective date of 8 March 2018³ by the then Assistant Minister for Science, Jobs and Innovation and Parliamentary Secretary to the Minister for Jobs and Innovation, following consideration of the *Anti-Dumping Commission Report No 418* (418)⁴. This notice is in effect for five years from 08 March 2018 to 07 March 2023.

¹ The Dumping Duty notice in relation to the goods exported from China is [ADN 2016/39](#).

² Document 063-REP, EPR 300.

³ The Dumping Duty notice in relation to the goods exported from Greece, Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and Thailand is [ADN 2018/10](#).

⁴ Document 068-REP, EPR 418.

The goods to which current anti-dumping measures apply are⁵:

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 covered by this application include all steel reinforcing bar meeting the above description regardless of the particular grade, alloy content or coating.

Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.

The current rates of dumping duty on rebar exported to Australia are set out in ADN 2016/39⁶ and ADN 2018/10⁷.

3 Application for Exemption from Measures

An application for an exemption has been made to the Commission by International Drilling Equipment Pty Ltd. The Commission has considered the application and after consultation with the applicant, accepted the application and will now undertake an examination to determine whether it should recommend the requested exemption.

4 Exemption Provision

The Dumping Duty Act provides a discretion for the Minister to exempt goods from dumping duties if one of the criteria in subsection 8(7)(a) is met.

Subsection 8(7)(a)

The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;*

The exemption provisions are subject to the discretion of the Minister and an exemption is not automatically granted, even where the criteria in the provision is met.

⁵ As described in [ADN 2016/39](#) and [ADN 2018/10](#).

⁶ [ADN 2016/39](#)

⁷ [ADN 2018/10](#)

5 The Goods Subject to this Exemption Application

The goods the subject of this exemption inquiry are fully threaded prestressing steel threadbar with a grade strength of 885MPa to 1100MPa and diameters of 15mm to 75mm.

The applicant provided further details as follows:

- The rib geometry is completely different from steel reinforcing bar. It is a continuously rolled coarse thread onto which steel nuts and couplers can be screwed anywhere along the entire length of the threadbar. This is impossible with standard stock reinforcing bars as they are not threaded.
- Threadbar can be readily modified on site because the continuous thread allows couplers and joiners to be used to extend the bars and for end anchorage such as nuts and plates to be installed at any position along the threadbar.
- Fully threaded prestressing steel threadbar is unique in that it has “double the strength of reinforcing bar”, “has stringent mechanical properties including elongation, ductility and relaxation” and “allows for effective and sufficient stressing against concrete and rock”.
- Design engineers specify fully threaded prestressing steel threadbar instead of threadbar with a grade strength of 500N because of the higher maximum yield strength.
- The prestressing steel threadbar required by the applicant has diameters which range from 15mm to 75mm and yield strengths of between 885MPa to 1100MPa and is “not currently made by Australian Industry”.

Goods produced in Australia

The applicant claims that there are no Australian manufacturers of fully threaded prestressing steel threadbar with a grade strength of 885MPa to 1100MPa and diameters of 15mm to 75 mm.

6 Instructions on Completing this ‘Response to the Exemption Application’

The applicant has identified your company as a producer of rebar.

Consequently, the Commission has forwarded you this ‘response to exemption application’ (the response) to provide you with the opportunity to participate in this exemption inquiry.

The Commission seeks your assistance with this exemption inquiry by responding to the questions in this form. The Commission will use the information you provide to make a recommendation as to whether an exemption from dumping duty should be granted by the Minister for Innovation, Science and Technology.

Specifically, the information provided by Australian rebar producers will assist the Commission in determining whether like or directly competitive goods are offered for sale in Australia and whether offers for sale of the goods are available to all purchasers on equal terms under like conditions having regard to custom and usage of trade.

Due date for the response

We request that you complete your response and return it to the Commission by **4 March 2019**.

Please email your response to investigations4@adcommission.gov.au

Responses may be lodged either by mail or by email to the following:

The Director – Investigations 4

by email: investigations4@adcommission.gov.au

by post: Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601
Australia

by fax: (03) 8539 2499 or +61 3 8539 2499 (outside Australia).

Verification of the information that you supply

The Commission may seek to verify some or all of the information supplied in the response. The Commission may request evidence to support the claims such as quotations and offers of sale.

An onsite visit by the Commission may be required in some cases. A report will be prepared of visits conducted and a non-confidential version will be placed on the public record.

There is no legislative timeframe for completion of an exemption inquiry, however a recommendation to the Minister will be made as soon as practicable after obtaining all relevant information.

Confidential and non-confidential submissions

We request that you also lodge a non-confidential version of your response suitable for placement on the public record. The Commission puts greater weight on submissions that are available to other interested parties for comment.

Please ensure that each page of information you provide is clearly marked either: “FOR OFFICIAL USE ONLY” or “PUBLIC RECORD”.

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the public record.

Outline of information required by the response

| | |
|---------------|--|
| Part A | Company contact information |
| Part B | Response to exemption application |
| Part C | Identical goods |
| Part D | Like or directly competitive goods |
| Part E | Capability to produce like or directly competitive goods |
| Part F | Additional comments |
| Part G | Your declaration |

Response to Exemption Application

PART A – Company Information

A.1 Please provide the following company contact information:

| | |
|-----------------------------------|------|
| Name: | ████ |
| Position in company: | ████ |
| Address: | ████ |
| Telephone: | ████ |
| Facsimile number: | |
| E-mail address of contact person: | ████ |

PART B – Response to Exemption Application

B.1

Does your company oppose or not consent to the request for an exemption?

- Oppose
 Not oppose

NOTE: If your company does not oppose the request for an exemption, you do not need to complete all parts of the questionnaire. Please indicate that you do not oppose the request (stating the reasons why), answer the questions that are relevant to your reasons for not opposing the request, sign and return the form as soon as possible.

PART C – Identical Goods

C.1

Does your company produce, in Australia, goods that are identical in all respects to the goods described in section 5 of this 'Response to Exemption Form'?

If no, go to Part D – Like or directly competitive goods.

- Yes
 No

C.2

Please provide evidence that you have produced and sold in Australia, in the last 12 months, goods that are identical in all respects to the goods subject to this application for exemption.

Documents attached are as follows:

- Two recent sales invoices for Liberty Steel sales of formwork bar.⁸
- Grade information sheet for the product Y1100H formwork bar⁹ noting the following characteristics:
 - Manufactured in accordance with Euronorm Standard prEN 10138-4 Prestressing steels – Part 4: Bars.
 - Minimum Yield Strength is 900MPa
 - Ultimate Tensile Strength is 1100 to 1265MPa
 - Bar size of 15mm and 20mm in standard offer

The exemption goods description submitted by the applicant does not fully clarify the specifications for which exemption is being sought. The “grade strength of 885MPa to 1100MPa” does not reference which “strength” is being referenced.

It is assumed that the 885MPa referenced relates to a minimum yield strength requirement. In that case, the goods described above as produced by Liberty Steel exceeds the requirement with a minimum of 900MPa applicable to grade Y1100H formwork bar. Similarly based on the assumption that grade strength 1100MPa referenced in the exemption goods description refers to an Ultimate Tensile Strength (**UTS**) requirement, grade Y1100H meets the requirement, having a range of UTS specified as 1100 to 1265MPa.

The range of sizes described by the exemption goods description is similarly perplexing. Dumping duties currently applicable to hot-rolled steel reinforcing bar for which exemption is being sought only applies to “*diameters up to and including 50 millimetres*” so sizes above 50mm are not goods to which the current anti-dumping measures apply.

As shown in CONFIDENTIAL ATTACHMENT C, the current sizes of prestressed threaded bar (formwork bar) offered in the standard Liberty Steel offer are 15mm and 20mm diameter bar.

Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods in the same detail as set out in the description of the goods (section 5), please provide additional information that indicates that identical goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature respecting the identical goods you have produced and sold.

C.3

Provide evidence of the terms and conditions of sale of these identical goods. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Liberty Steel provides evidence of supply agreements for prestressed threaded bar (formwork bar) including sales terms and conditions.¹⁰

⁸ CONFIDENTIAL ATTACHMENT A AND CONFIDENTIAL ATTACHMENT B

⁹ CONFIDENTIAL ATTACHMENT C

¹⁰ CONFIDENTIAL ATTACHMENT D AND CONFIDENTIAL ATTACHMENT E

Apart from differences in price based on sales volumes, the identical goods are available to all purchasers on equal terms under like conditions, as follows:

- Stocking – Liberty Steel [REDACTED];
- Grade - [REDACTED] in both cases;
- Sizes - 15mm and 20mm;
- Delivery - [REDACTED] terms; and
- Payment terms - [REDACTED] days [REDACTED].

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

PART D – Like or Directly Competitive Goods

D.1

If your company does not produce identical goods, does it produce and sell in Australia goods that are like or directly competitive to the goods subject to this application for exemption?

In determining whether the goods are like or directly competitive, the Commission will consider whether the goods have characteristics closely resembling each other and are substitutable.

The Commission may also consider;

- whether physical characteristics of the goods are similar (including size, weight, shape, content, appearance, grade, standards, strength and purity);
- whether the goods are commercially alike, this may include consideration of the following;
 - whether the goods directly compete in the same market sector;
 - the extent to which participants in the supply chain are willing to switch between the goods and the goods subject to the application for exemption;
 - how the price of the goods and goods subject to the application influences consumption;
 - whether the goods share similar distribution channels; and
 - whether the goods are similarly packaged.
- functional likeness – whether the goods are suitable with regard to end use, this may include an assessment of;
 - the extent to which the goods are functionally substitutable;
 - the extent to which the goods are capable of performing the same or similar function;
 - whether the goods have the same or similar quality standards; and
 - consumer behavior in relation to the goods and goods subject to this application for exemption.
- production likeness, this may include an assessment of;
 - the extent to which the goods are constructed of the same or similar materials;
 - the manufacturing process of the goods; and

- whether any patented processes or inputs are involved in the production of the goods.

D.2

If you answered yes to question D.1, please provide a description of the goods produced by your company that you consider to be like or directly competitive to the goods subject to this application. Your description of the goods your company produces should refer to all aspects of the goods as set out in the description of the goods in section 5.

| Characteristics | Description |
|------------------------|--------------------|
| | |
| | |
| | |
| | |
| | |
| | |

Please provide evidence that the goods you consider like or directly competitive to the goods subject to this application for exemption have recently been produced or sold in Australia by your company. Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods described in the above table, please provide additional information that indicates that the goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature concerning the like or directly competitive goods you produced and sold.

D.3

Provide evidence of the terms and conditions of sale of these like or directly competitive products. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

PART E – Capability to Produce Identical or Like or Directly Competitive Products

E.1

If your company has not produced and sold in Australia products that are identical to, or like or directly competitive to the goods subject to this application for exemption, is your company capable of producing such goods?

- Yes *(to the extent that Liberty Steel has not produced and sold in Australia products that have a diameter other than 15 mm and 20 mm)*
- No

E.2

If you answered yes to question E.1, indicate whether the product that you can produce is identical to, or like or directly competitive to the goods subject to this application for exemption.

If a customer requires a certain bar size, grade or rib profile which is not offered as part of Liberty Steel's suite of standard products, Liberty Steel will routinely work with the customer to produce a product that meets their requirements. The applicant to this exemption application has not to date approached Liberty Steel to supply the goods they are currently importing.

E.3

If you are capable of producing identical, like or directly competitive goods, explain why you have not produced such goods.

In terms of other sizes the applicant is importing in the range 15-50mm of the exemption goods, Liberty Steel has contacted the applicant seeking an opportunity to quote and offer to sell and supply 'the exemption goods' to the applicant.

In rejecting Liberty Steel's offer to produce and supply 'the exemption goods', the applicant

[REDACTED] *.[reasons for rejected offer to produce and supply 'the exemption goods']* Correspondence relating to contact with the applicant is attached as CONFIDENTIAL ATTACHMENT F.

Provide evidence of your production capability, including evidence of the production and sale of similar products, certification of the identical, like or directly competitive goods and at what cost they could be produced, as well as any plans for the imminent production of the goods or orders for the goods and any relevant information.

In addition to its response to question C.2, above, Liberty Steel also refers to CONFIDENTIAL ATTACHMENT A and CONFIDENTIAL ATTACHMENT B as evidence of the production and sale of prestressed threaded bar (formwork bar) by Liberty Steel, specifically, 15mm and 20mm diameter bar.

E.4

If you are capable of producing identical, like or directly competitive goods, provide reasonable evidence of likely terms and conditions of sale for these goods.

CONFIDENTIAL ATTACHMENTS D AND E indicate the likely terms and conditions of sale for goods other than those currently produced and sold by Liberty Steel, specifically, prestressed threaded bar (formwork bar) with diameters of 15mm and 20mm.

PART F – Additional Comments

F.1

Provide any additional comments including any other information that will assist the Commission in reaching a recommendation to the Minister regarding this application for exemption.

PART G – Declaration

I hereby declare that [Liberty OneSteel \(Newcastle\) Pty Ltd, OneSteel NSW Pty Limited and The Australian Steel Company \(Operations\) Pty Ltd](#) (collectively, [Liberty Steel](#)). (company)

has completed the attached response to application for exemption and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

Name : [REDACTED]

Signature : [REDACTED]

Position in Company : [REDACTED]

Date : 12 April 2019