



Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved¹ form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 6 July 2021 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party² may lodge an application to the ADRP for review of a Ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Time

Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences

The ADRP may request that you or your representative attend a conference for the purpose of obtaining further information in relation to your application or the review. The conference may be requested any time after the ADRP receives the application for review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. See the ADRP website for more information.

Further application information

You or your representative may be asked by the Member to provide further information in relation to your answers provided to questions 9, 10, 11 and/or 12 of this application form (s 269ZZG(1)). See the ADRP website for more information.

Withdrawal

You may withdraw your application at any time, by completing the withdrawal form on the ADRP website.

Contact

If you have any questions about what is required in an application refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

¹ By the Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.

² As defined in section 269ZX *Customs Act 1901*.

PART A: APPLICANT INFORMATION

1. Applicant's details

Applicant's name: Hoa Sen Group Joint Stock Company ("HSG")
Address: 183 Nguyen Van Troi, Ward 10, Phu Nhuan District, Ho Chi Minh City, Vietnam
Type of entity (trade union, corporation, government etc.): Corporation

2. Contact person for applicant

Full name: Nguyen Hong Phuoc (Ms)
Position: Trade Remedy Officer
Email address: nguyen.hong.phuoc@hoasengroup.vn
Telephone number: (84) 97 182 0075

3. Set out the basis on which the applicant considers it is an interested party:

HSG is the manufacturer and exporter of the goods subject to review.
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4. Is the applicant represented?

Yes No

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

****It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.****

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the *Customs Act 1901* the reviewable decision was made under:

Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice

Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice

Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice

Subsection 269TK(1) or (2) – decision of the Minister to publish a third country countervailing duty notice

Subsection 269TL(1) – decision of the Minister not to publish duty notice

Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures

Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry

Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

Please only select **one** box. If you intend to select more than one box to seek review of more than one reviewable decision(s), **a separate application must be completed**.

6. Provide a full description of the goods which were the subject of the reviewable decision:

The goods the subject of the reviewable decision are:

Flat rolled iron and steel products (whether or not containing alloys), of a width equal to or greater than 600 millimeters ("mm"), plated or coated with aluminium-zinc alloys, not painted, and whether or not including resin coating

7. Provide the tariff classifications/statistical codes of the imported goods:

7210.61.00 (statistical code 60, 61, 62)
7225.99.00 (statistical code 39)

8. Anti-Dumping Notice details:

Anti-Dumping Notice (ADN) number: 2021/147

Date ADN was published: 24 December 2021. Refer to notice at **Non-confidential Attachment A**.

****Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application****

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the application that contains sufficient detail to

give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be **highlighted in yellow**, and the document marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

- Personal information contained in a non-confidential application will be published unless otherwise redacted by the applicant/applicant's representative.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so:

9. Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision:

Refer to **Confidential Attachment B – Grounds for review.**

10. Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 9:

Refer to **Confidential Attachment B – Grounds for review.**

11. Set out how the grounds raised in question 9 support the making of the proposed correct or preferable decision:

Refer to **Confidential Attachment B – Grounds for review.**

12. Set out the reasons why the proposed decision provided in response to question 10 is materially different from the reviewable decision:

Refer to **Confidential Attachment B – Grounds for review.**

13. Please list all attachments provided in support of this application:

Non-confidential Attachment A: ADN 2021_147
Confidential Attachment B: Grounds of review
Confidential Attachment C: Price list for Hot-dip Rolled-Coating Steel
Confidential Attachment D: Price list for Rolled GL
Non-confidential Attachment E: ADN 2018_77
Confidential Attachment F: 558 - Hoa Sen Group - Appendix 3 - Normal Value - HSG proposed
Confidential Attachment G: 558 - Hoa Sen Group - Appendix 4 - Dumping margin - HSG proposed

PART D: DECLARATION

The applicant's authorised representative declares that:

- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected; and
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.

Signature:

Name: [REDACTED]

Position: [REDACTED]

Organisation: [REDACTED]

Date: 13 / 1 / 2022

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

Provide details of the applicant's authorised representative:

Full name of representative: [REDACTED]
Organisation: [REDACTED]
Address: [REDACTED]
Email address: [REDACTED]
Telephone number: [REDACTED]

Representative's authority to act

****A separate letter of authority may be attached in lieu of the applicant signing this section****

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature:



The image shows a handwritten signature in blue ink over a red circular stamp. The stamp contains the text: 'VU VAN THANH' at the top, 'CÔNG TY CỔ PHẦN TẬP ĐOÀN HOA SEN' in the center, and 'T.Đ. AN - T. ĐINH DƯƠNG' at the bottom. The stamp also includes a registration number 'M.S.D. No. 3700381324-C.T.Đ.' around the perimeter.

Name:

Position: Deputy General Director

Organisation: Hoa Sen Group Joint Stock Company

Date: 13 / 01 / 2022

GROUNDS FOR REVIEW

HSG seeks a review of a following finding which led to the decision by the Minister to determine the dumping margin.

Ground 1: The Minister erred by incorrectly calculating the timing adjustment in determining HSG's normal values.

1. Grounds for review

In determining HSG's export prices, the Commission categorised HSG's exports into four different model control codes ("MCC"). The four MCCs were:

- i) P-2-D-3-3-C
- ii) P-2-F-2-2-C
- iii) P-2-F-2-3-C
- iv) P-2-F-4-3-C

All four MCC's possessed the following characteristics:

- prime product;
- coating mass >100 g/m² to ≤ 165 g/m²;
- structural grades (AS/NZS 1397) G300 and G550;
- width greater than 600mm;
- in coil form.

Importantly, all products were manufactured to comply with the Australian standard AS/NZS 1397 and were of the structural grades. None of the products exported complied to any other international standard or manufactured for general/commercial grade or forming, pressing & drawing grades.

In those circumstances where there was not suitable domestic sales of the same MCC in the same corresponding quarter of export, the Commission calculated and applied a timing adjustment. The method for calculating the timing adjustment was by reference to the quarterly change in the normal value of a corresponding surrogate MCC, and then indexed to the relevant normal value of the exported MCC.

HSG accepts that the formula for calculating the timing adjustment is appropriate. However, it contends that the selection of the surrogate MCC used to quantify the quarterly change is not correct.

The table below summarises the Commission's determination with regards to the selection of surrogate MCC for the timing adjustment.

Export MCC	Suitable domestic MCC in same quarter of export?	Domestic surrogate MCC	MCC for timing adjustment
P-2-D-3-3-C	No		██████████
P-2-F-2-2-C	No	P-2-F-2-3-C	██████████
P-2-F-2-3-C	No		██████████
P-2-F-4-3-C	No	P-2-F-3-3-C	██████████

In identifying the domestic surrogate MCC, the Commission does appear to have properly followed its own stated policy in relying on the hierarchy of the established MCC structure. That is, it has sought to identify the surrogate MCC by ensuring matching categories in descending order. The grounds for review only apply to the timing adjustments relying on MCC "██████████". The timing adjustment based on MCC "██████████" has properly followed the Commission's stated policy and is therefore correct.

The Dumping and Subsidy Manual confirms this approach:

Where there are no sales or insufficient sales of identical models of the goods exported to Australia that are sold in the ordinary course of trade on the domestic market, the Commission may use a surrogate model and make appropriate specification adjustments. In deciding the appropriate surrogate model and specification adjustments, the

Commission will rely on the MCC structure and the hierarchy of categories or sub-categories.

...

Importantly, the MCC structure will establish the model matching hierarchy. The categories in the MCC structure will be listed, in descending order, according to the significance of the category to the goods when model matching. This is to ensure that the most comparable surrogate models are chosen, for model matching purposes, when there are insufficient domestic sales of the identical model. The most comparable model is usually considered to be the surrogate model that has the closest physical characteristics (an indicator of this may be the model that has the smallest difference in cost of production per unit)

[emphasis added]

However, whilst the Commission has followed its policy in identifying the surrogate MCCs, it has ignored this preferred approach in identifying the surrogate MCCs for calculating the timing adjustment. Without proper explanation, the Commission advised HSG that the case management team overruled the verification team and considered that "[REDACTED]" '...was closer to the base MCCs'.

This is clearly a flawed approach as the Commission has ignored the model control code hierarchy and the significance of the categories within the hierarchy. The Commission has effectively ignored the second most significant MCC category, which relates to the coating mass of the subject goods, in identifying the surrogate model control code for calculating the timing adjustment.

The significance of the coating mass is confirmed by the unit cost of production differences between the relevant model control codes. For December quarter 2019, the Commission's selected model control code for the timing adjustment "[REDACTED]", is approximately █% less than the export and surrogate domestic model control codes. This compares to the surrogate model control code for the timing adjustment proposed by HSG, "[REDACTED]", where unit production costs were only █% less than the export and surrogate domestic model control codes.

It is also important to note that the Commission confirmed through its verification that HSG's export and domestic prices do not vary according to [REDACTED] [product characteristics]. Instead, prices are predominantly differentiated by [REDACTED] [product characteristics], as confirmed in the following price lists which were provided to the Commission:

- **Confidential Attachment C - Price list for Hot-dip Rolled-Coating Steel;**
- **Confidential Attachment D - Price list for Rolled GL**

Given that prices do not vary by [REDACTED], the most comparable surrogate model control code to the export and surrogate domestic model control codes in the September quarter 2019, is "[REDACTED]", as the characteristics that affect price are identical. Likewise, the most comparable surrogate MCC to the export and surrogate domestic model control codes in the June quarter 2019, is "[REDACTED]", as the characteristics that affect price are identical.

The table below summarises the relevant MCC proposed by HSG for the purposes of the timing adjustment.

Export MCC	MCC for timing adjustment	
	June qtr 2019	Sept qtr 2019
P-2-F-2-3-C	[REDACTED]	[REDACTED]
P-2-F-2-2-C	[REDACTED]	[REDACTED]

Relying on the correct model control codes as per the table above, for the purposes of the calculating timing adjustments, results in HSG's dumping margin being reduced to █%.

2. Applicant's opinion of the correct or preferable decision

As it was demonstrated that prices do not vary by grade but instead are influenced by the coating mass, the most comparable surrogate MCC for calculating the timing adjustment in the September quarter 2019, is "[REDACTED]", as the characteristics that affect price are identical. Likewise, the most

comparable surrogate MCC for calculating the timing adjustment in the June quarter 2019, is “[REDACTED]”, as the characteristics that affect price are also identical.

The table below summarises the relevant MCC proposed by HSG for the purposes of the timing adjustment.

Export MCC	MCC for timing adjustment	
	June qtr 2019	Sept qtr 2019
P-2-F-2-3-C	[REDACTED]	[REDACTED]
P-2-F-2-2-C	[REDACTED]	[REDACTED]

3. Support for the proposed correct or preferable decision

The correct decision proposed by HSG is supported by the Commission’s published dumping notice (ADN 2018/77 is included at at **Attachment E**) which outlines its policy and practice with regards to the use of the MCC structure.

4. Reason why the proposed decision is materially different from the reviewable decision

The proposed correct or preferable decision is materially different from the reviewable decision as it leads to a material reduction in the dumping margin, from 8.1% to [REDACTED]%. The dumping margin based on HSG’s proposed MCC for the timing adjustment is based on the Commission’s final normal value and dumping margin appendices and included at:

- **Confidential Attachment F - 558 - Hoa Sen Group - Appendix 3 - Normal Value - HSG proposed**
- **Confidential Attachment G - 558 - Hoa Sen Group - Appendix 4 - Dumping margin - HSG proposed.**