

21 August 2019

Ms Jaclyne Fisher
Panel Member
Anti-Dumping Review Panel

BY EMAIL: ADRP@industry.gov.au

Dear Panel Member,

Submission of the Australian industry, InfraBuild Steel

Re.: ADRP Review No. 2019/108 - Review of a decision by the Parliamentary Secretary in respect of steel reinforcing bar exported from the Republic of Korea and Taiwan (with the exception of Power Steel Co. Ltd)

InfraBuild (Newcastle) Pty Ltd; previously known as *Liberty Onesteel (Newcastle) Pty Ltd; (InfraBuild Steel)*¹ is the sole producer in Australia of like goods to the goods the subject of this review of anti-dumping measures under Division 5 of the *Customs Act 1901*².

InfraBuild Steel provides the following additional clarification in relation to grounds 1 and 3(ii) to the information provided in Appendix B (Elaboration of the grounds raised in question 9) to its application for review of a decision by the Minister. References to grounds correspond with those contained in the public notice of Panel Member Fisher under s.269ZZI dated 22 July 2019.

- The Reviewable Decision was not the correct or preferable decision because the Minister's determination of the normal value for the exporter from Taiwan, Wei Chih Steel Industrial Co., Ltd (Wei Chih) under s.269TAC(2)(c) of the Customs Act 1901 (the Act) was not authorised by the terms of s.269TAC(2)(a)(i) of the Act because the Minister ought not to have been satisfied that there was an absence, or low volume, of sales of like goods by the exporter Wei Chih, in the market of the country of export that would be relevant for the purpose of determining a price under s.269TAC(1) of the Act.**

Exporter Verification Report for Wei Chih

The verification team, upon consideration of production, commercial and functional factors, concluded:

*"The verification team considers that the goods manufactured for domestic consumption are identical to, or have characteristics closely resembling, the goods exported to Australia."*³

The goods/models reported to be produced for export to Australia⁴:

Grade 500N produced to Standard AS/NZS4671:2001 having minimum yield strength (Standard requirement) of 500MPa (to 650MPa), produced in diameters of 12 to 40mm and lengths of 6 to 12m.

Alloy additions of Niobium (a commonly used rebar chemical strengthening agent) were reported to be made on these goods in the range of 0.024% to 0.030%.

¹ https://connectonline.asic.gov.au/RegistrySearch/faces/landing/SearchRegisters.jspx?_adf.ctrl-state=15i3umbk6d_4 (accessed 20/08/2019)

² All legislative references in this submission are to the Customs Act 1901, unless otherwise specified.

³ EPR 489 Folio 012 at p. 4

⁴ EPR 489 Folio 012 table on p. 4

The goods/models reported by the verification team to be produced for sale domestically by Wei Chih⁵:

Grades SD280 and SD420W produced to Standard CNS 560 having minimum yield strength requirement of 420MPa and 550MPa (*note, these values reported by the Commission do not align with CNS 560 Standard requirements of minimum yield strength of 280MPa and 420MPa for these grades as per Standard extracts provided to the Commission via submission, they instead appear to be referencing the minimum yield strength and tensile strength for grade SD420W⁶*) in diameters of #3 to #10 and lengths of 9.5 to 18m.

Alloy additions of Vanadium (a commonly used rebar chemical strengthening agent) were reported to be made for grade SD420W only.

Response to SEF 486 & 489

InfraBuild Steel expressed significant concern, firstly, around the lack of transparency in model matching criteria assessment applied by the Commission, secondly, the regard had to seemingly irrelevant factors (ductility, alloy and coating), and, thirdly, the lack of technical understanding shown in relation to other factors (carbon content versus carbon equivalent value). Correct assessment of model matching underpins the determination of whether sufficient sales of like goods were sold by Wei Chih in the market of the country of export. Concern was expressed by InfraBuild Steel that a technically flawed assessment of model matching factored into the consequent decision to determine Wei Chih's normal value using a constructed methodology, without the application of a specification adjustment under s.269TAC(8) to the normal value determined under s.269TAC(1).

InfraBuild Steel provided extracts of the relevant domestic and export Standards' requirements in relation to minimum yield strength and chemistry control (including carbon equivalent value requirements) for the relevant Standard defined grades identified by the Commission in their verification visit.

InfraBuild Steel provided a summary assessment of model matching based on comparison of relevant domestic and export Standard grade requirements⁷:

CNS560, A 2006

Grade SD490 (max CE specified, min yield strength = 490MPa, best match for 500MPa export grade)

Grade SD280 (no maximum CE specified, not a comparable grade)

Grade SD280W (max CE specified, min yield strength = 280MPa, well below min 500MPa for export grade)

Grade SD420 and SD420W (maximum CE specified, min yield strength = 420MPa, adjustment needed for fair comparison to SD490 or 500N export grade)

InfraBuild Steel questioned the Commission's conclusion that it was unable to have regard to domestic sales of grade SD420 or SD420W product as goods closely resembling the GUC with adjustments (under s.269TAC(8)) required to ensure a proper comparison with the nearest export grade equivalent (SD 490) in the absence of sufficient domestic sales of the latter. Contemporaneous evidence of the price premium applied by another Taiwanese producer of rebar for grade SD490 over grade SD420 had been provided⁸ to the Commission.

⁵ EPR 489 Folio 012 table on p. 5

⁶ EPR 489 Folio 018 p.4

⁷ EPR 489 Folio 018 p.4

⁸ EPR 489 Folio 006 Confidential Attachment A

REP 486 & 489

InfraBuild Steel contends that the Commission's assessment outlined in REP 486 & 489 remains technically flawed and unsound:

*"The Commission reviewed the exporter verification and analysed the characteristics between the domestic models (S420 to S420W) that Liberty Steel argues are comparable models to the export model 500N. The Commission's analysis shows that **models S420 to S420W differ in chemical composition and grade standards to the export model; domestic models include strengthening alloys whilst the export model is water quenched; and the domestic models do not meet Australian standards.**"*

*The Commission therefore affirms the views set out in subsection 4.5.3 that there were not sufficient volumes of sales of domestic models appropriately comparable to the models Wei Chih exported to Australia."*⁹

- **"Models S420 to S420W differ in chemical composition and grade standards to the export model"**

Chemical composition of steel grades and the Standards to which they have been produced are almost always going to be different when comparing domestic and export sales. This is the whole purpose of model matching and understanding key criteria for grade comparison to be able to assess the domestic grades that are most alike to the export grades.

Based on the key criteria of minimum yield strength and chemistry control for weldability (both fundamental factors considered when customers purchase rebar), the Commission ought to have concluded that Taiwanese grade SD490 was most alike to the export grade 500N. In the absence of sales of grade SD490, sales of grades SD420 and SD420W ought to have been used with an appropriate adjustment applied for the increased strength requirements for SD490 or SD500.

Evidence of the magnitude of the adjustment required to be applied was provided to the Commission. The Commission was also advised that sales of Korean Standard grades SD300, SD400 and SD500 by Wei Chih into the Korean Market since 2010 could also provide an indication of the relative price premium applying to higher yield strength (500MPa) rebar grades.

- **"Domestic models include strengthening alloys whilst the export model is water quenched"**

This statement by the Commission is a clear contradiction of the Commission's own verification findings for this exporter.

The Verification Report for Wei Chih includes in the table at 2.3 *"The goods exported to Australia"* under the category *"Alloy and alloy content"* an entry *"Nb: 0.024-0.028% and Nb: 0.026-0.030%"*. This entry is referring to an alloy addition of niobium (a commonly used strengthening agent¹⁰). Even if the export model is sprayed with water in the final stages of the hot-rolling process (water quenched), it also clearly has strengthening alloys added in the form of niobium. The verification report for Wei Chih further reports that ONLY domestic grade SD420W has an alloy addition (of vanadium) rather than niobium applied.

- **"and the domestic models do not meet the Australia Standards"**

Again, this is the whole point of the model matching exercise – to determine which domestic models are considered the closest match to the export model and to make any necessary adjustments accordingly.

⁹ REP 486 & 489 at p 23

¹⁰For reference see <https://www.oakleysteel.co.uk/niobium-microalloyed-structural-steels>

It remains InfraBuild Steel's contention that the Commission has not correctly performed the domestic sales assessment to determine models "appropriately comparable to the models Wei Chih exported to Australia" and that the Minister ought not to have been satisfied that there was an absence, or low volume, of sales of like goods by the exporter Wei Chih, in the market of the country of export that would be relevant for the purpose of determining a price under s.269TAC(1) of the Act.

3. The Minister's decision:

- (ii) **to determine the normal value of goods exported to Australia by Daehan by reference to the price paid for goods that were not like goods sold in the ordinary course of trade for home consumption in the country of export is not supported by s.269TAC(1) of the Act and is therefore not the correct or preferable decision.**

Although the verification visit report for Daehan referenced grade "500" (minimum yield strength required by the Standard of 500MPa) for the two models exported to Australia, it still remains unclear whether Daehan domestic sales of grades of SD500 and SD500W have been included in the like goods assessment and if so, whether any adjustment was made to sales of SD500 for any price premium observed between sales of SD500 and SD500W.

As outlined in InfraBuild Steel's response to SEF 486 and 489, a comparison of the Korean Standards to the export Standard shows that the Korean Standard KSD3504-2011 designates the grades intended to be readily weldable i.e. chemistry tightly controlled through a specified carbon equivalent value to allow known welding procedures to be applied, with a "W" suffix. The Australian/New Zealand rebar Standard AS/NZS4671:2001 does not differentiate between "general use" and "for welding" grades as all grades contained are required to comply with the maximum carbon equivalent specification, with the Standard stating "steels conforming to this Standard shall be deemed to be weldable under the conditions specified for each class in AS1554.3 [Australian Standard for welding of reinforcing steel]". Based on this key characteristic of the export goods produced to Grade 500N, the most comparable Korean grade ought to have been considered to be grade SD500W.

It also remains unclear which other grades may have been included by the Commission in the dumping margin as grades "400" have also been identified for three of the five domestic models as per the Exporter Verification Report for Daehan. REP 486 & 489 does not provide any clarification through the following confusing statement:

"Based on the exporter verification available, the Commission confirms the relevant grades used to compare domestic goods were equivalent to applicable Australian Standards"¹¹

Questions that remain unanswered and are fundamental considerations to the Commission's dumping margin calculation:

- Was the Commission able to differentiate the following grades: SD400, SD400W, SD500, SD500W when determining the exporter's normal value? Were all grades included?
- If grade SD400 and SD400W sales were included, were adjustments made for observable price premiums between these grades and the higher strength grades SD500 and SD500W?

¹¹ REP 486 & 489 at p 18



- Were observable price premiums between grades SD400 and SD400W and between grades SD500 and SD500W included as adjustments to the normal value, where required, under s.269TAC(8)?

InfraBuild Steel contends that, on the basis of minimum yield strength and weldability considerations and relevant Standards comparison, Korean grade SD500W ought to have been selected as the most comparable grade to export grade 500N. Appropriate adjustments ought to have been made for price differences (compared to SD500W) observed in the Korean market for sales of other grades included in the domestic sales for the determination of Daehan's normal value.

Please do not hesitate to contact your InfraBuild Steel representative contact on record with any questions.

FOR AND ON BEHALF OF

THE AUSTRALIAN INDUSTRY PRODUCER