

16 July 2015

Anti-Dumping Review Panel
c/o Legal Services Branch
Department of Industry
Industry House
Binara Street
CANBERRA ACT 2601

Email: ADRP@industry.gov.au

Public File

Dear Sir/Madam

Request for Review of a Decision – Rod In Coil exported from the Republic of Indonesia and Taiwan

By application dated 24 February 2014 OneSteel Manufacturing Pty Ltd (“OneSteel”) requested the imposition of anti-dumping measures on rod in coil (“RIC”) exported from the Republic of Indonesia (“Indonesia”), Taiwan and Turkey.

Following investigation by the Anti-Dumping Commission (“the Commission”) the Parliamentary Secretary accepted the recommendations to apply interim anti-dumping measures on future exports of RIC from Indonesia (except by PT Ispat Indo) and Taiwan. The Parliamentary Secretary’s decision to impose measures was published in a notice dated 16 June 2015.

The Commission’s recommendations as accepted by the Parliamentary Secretary are included in Report No. 240.

OneSteel has reviewed the grounds for the Parliamentary Secretary’s decision to apply interim measures and does not consider that the decision to apply measures based on the ad valorem method to be the correct or preferred decision. Additionally, OneSteel contends that the Parliamentary Secretary’s decision to base the dumping margin for “all other exporters” on the same rate as the “residual exporters” is not the correct or preferred decision.

OneSteel is requesting the Anti-Dumping Review Panel (“ADRP”) to review the identified decisions of the Parliamentary Secretary.


Specifically, OneSteel is requesting the ADRP to review:

- The method by which anti-dumping measures have been applied to RIC exported to Australia from Indonesia and Taiwan.
- The normal value and “all other exporters” rate determined for Indonesia and Taiwan;

The attached application for review details the grounds as to why the decision of the Parliamentary Secretary is not the correct or preferred decision in relation to the exported goods from Indonesia and Taiwan.

If you have any questions concerning this application for review, please do not hesitate to contact Mr Matt Condon on (02) 8424 9880 or OneSteel's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matt Condon', is positioned above a horizontal line.

Matt Condon
Manager Trade Development

Application Particulars

1. Contact Details

1.1 Name, street and postal address, and form of business of the applicant

OneSteel Manufacturing Pty Ltd ("OneSteel") is the applicant company requesting a review of the decision of the Parliamentary Secretary to apply anti-dumping measures on rod in coil ("RIC") exported from the Republic of Indonesia and Taiwan.

OneSteel's postal address is:

Level 6
205 Pacific Highway
St Leonards NSW 2065
Tel: (02) 8424 9880
Fax: (02) 8424 9885

1.2 Name, title/position, telephone and facsimile numbers, and email address of contact within the organisation

The contact person at OneSteel concerning this application for review is:

Contact Name:	Mr Matt Condon
Company and position:	Manager Trade Development
Address:	Level 6 205 Pacific Highway St Leonards, 2065
Telephone:	(02) 8424 9880
Facsimile:	(02) 8424 9885
E-mail address:	condonm@onesteel.com.au

1.3 Name of consultant

OneSteel has engaged the following representative to assist with this application:

Name:	Mr John O'Connor
Representative's business name:	John O'Connor & Associates Pty Ltd
Address:	P.O. Box 329, Coorparoo Qld 4151
Telephone:	(07) 3342 1921
Facsimile:	(07) 3342 1931
E-mail:	jmoconnor@optusnet.com.au

A copy of OneSteel's signed authorization nominating Mr O'Connor as OneSteel's representative is included at Confidential Attachment 1.

1.4 Full Description of the Goods

The goods the subject of OneSteel's application for anti-dumping measures were as follows:

"Hot rolled rods in coils of steel, whether or not containing alloys, that have maximum cross sections that are less than 14 mm."

The goods covered by this application include all steel rods meeting the above description of the goods regardless of the particular grade or alloy content.”

Goods excluded from this investigation are deformed bar in coils and stainless steel in coils.

2. Tariff Classification

The RIC the subject of this application for review are classified as follows:

- 7213.91.00 statistical code 44; and
- 7227.90.90 statistical code 42.

For the tariff subheadings outlined above, the general rate of duty is currently five per cent, however, Indonesia is designated a DCS country and Taiwan is designated a DCT⁸ country. Rod in coils exported to Australia from DCS and DCT designated countries are free of duty.

The Australian Customs and Border Protection Service (ACPBS) Trade Branch confirmed that rod in coils of non-alloy steel is classified to 7213.91.00 if the cross section is circular as well as less than 14 mm in diameter. Rod in coils of other alloy steel are classified to heading 7227, but the reference to subheading 7227.90.90 excludes certain alloys such as silico-manganese steel and non-circular sections.

3. A copy of the written advice from the Commissioner of the Parliamentary Secretary's decision

The Parliamentary Secretary's decision was published in *The Australian* newspaper (Non-Confidential Attachment 2) and the *Commonwealth of Australia Gazette* on 17 June 2015. Australian Dumping Notice No. 2015/76 was also published on 17 June 2015 (Please refer to Non-Confidential Attachment 3).

4. A detailed statement setting out the reasons for believing that the reviewable decision is not the correct or preferable decision.

I. Introduction

The Parliamentary Secretary has accepted the recommendations and findings of the Anti-Dumping Commission (“the Commission”) as published in Trade Measures Report No. 240 (“Report No. 240”). The Parliamentary Secretary has imposed interim dumping duties on all exports of rod in coil (“RIC”) exported from Indonesia (other than by PT Ispat Indo “Ispat”) and Taiwan.

The form of the anti-dumping duty applied by the Parliamentary Secretary is intended to remove the injurious effects of the dumping so that the Australian industry does not continue to be injured.

OneSteel is aggrieved by the Parliamentary Secretary's acceptance of recommendations as they relate to:

- (i) the application of interim measures based upon the *ad valorem* form of anti-dumping duties that are not the preferred form of measures to effectively address injurious dumping.
- (ii) the normal value and subsequent dumping margin rate determined for “all other exporters” for both Indonesia and Taiwan;

The grounds for review associated with each item are detailed further below.

II. Applicant's Grounds for Review

(a) Form of measures

Report No 240 confirms that the form of measures applied by the Parliamentary Secretary is on the *ad valorem* basis. In the review of the Parliamentary Secretary's decision in Investigation No. 234, the Anti-Dumping Review Panel (“ADRP”) stated that it is not within its jurisdiction to review the form of anti-dumping measures as the measures are determined in accordance with s.8(5) of the *Customs Tariff (Anti-Dumping) Act*. OneSteel has obtained an independent legal opinion that rejects this viewpoint (See attached Confidential Attachment 4).

OneSteel submits that the form of measures is a relevant review consideration in the context of decisions of the Parliamentary Secretary in anti-dumping (and countervailing) investigations. OneSteel therefore seeks the ADRP to review the Parliamentary Secretary's decision as to the form of measure applied in Report No. 240 on the following grounds.

It is firstly relevant to consider the Commission's comments at Section 11.3¹ of Report No. 240 concerning the form of measures that includes the following:

“In determining the form of measures, the Commission has given consideration to the Guidelines on the Application of Forms of Dumping Duty – November 2013 (available on the Commission's website) and relevant factors influencing the rod in coils market. The Commission notes that the rod in coils market displayed considerable price volatility over the investigation period. As an example the export prices of a verified, non-dumping exporter varied by 18 per cent over the investigation period. The Commission anticipates that the rod in coils market will continue to demonstrate price volatility, and is satisfied that an ad valorem duty is the most appropriate form of duty in this environment.”

And further:

“The Commission is of the view that a combination method is not appropriate in this environment as it become less effective when a market experiences rising prices and punitive when the market experiences falling prices. The ad valorem method avoids these ‘effective rate’ impacts.”

OneSteel is aggrieved by the Commission's reasoning for the imposing *ad valorem* based measures as accepted by the Parliamentary Secretary. Imposing *ad valorem* measures is not the correct or preferable decision as it is acknowledged by the Commission itself that the intended effect of this type of measure is easily susceptible to circumvention.

¹ Trade Measures Report No. 240, P. 65.

This form of measure has the potential disadvantage that export prices might be lowered to avoid the intended effects of this duty²

The decision not to impose the Combination method is also contrary to the findings and recommendations of the House of Representatives Agriculture and Industry Committee Inquiry into Anti-Circumvention Activities

..... that the Minister, in imposing any anti-dumping duties, should use a combination of duties in preference to a single duty. This should be the default position in each case, unless it can be demonstrated by the Minister that a single duty is more suitable than a combination.³

The Commission has not demonstrated that a single duty is more suitable than a combination method, even in a volatile market.

The Commission's claim that the combination method becomes less effective in a rising market than the *ad valorem* method, is not logical. In a rising market the combination method (floor price plus *ad valorem*) effectively becomes the *ad valorem* method once the floor price is exceeded. In a rising market the combination method is equally effective as the *ad valorem* method.

It should be noted that whilst circumvention through export price manipulation remains a threat in a rising market (i.e. by not increasing export prices commensurate with increases in normal value) it is typically not as evident as there is increased demand and therefore reduced excess capacity. Exporters are less likely to dump on export markets as their domestic market expands.

In a static or falling market the combination method becomes more effective than the *ad valorem* method in preventing further dumping and injury. The floor price component of the combination method removes the incentive for the exporter to lower its export price to reduce the duty liability and avoid the intended effect of the duty. It should be noted that in a falling market demand is typically softer and excess capacity greater. It is in a falling market that dumping and circumvention are likely to prevail, as is the severity of the injury caused by the circumvention activity.

The fact that interim duties may exceed the non-injurious level in a falling market is not in itself punitive. The duty assessment process permits the refund of any overpaid interim anti-dumping duties. Duties short paid are not subject to any short-payment provision. It is therefore essential that the form of measure applied is effective to remove the injury from dumping. In a declining market, *ad valorem* measures fall short in this regard. In order to reduce the level of measure applied, exporters can reduce export prices without regard to the normal value (and without penalty).

It would appear that the Commission is concerned about the impact of measures on exporters in a falling market. This is evidenced by the referenced "punitive" impact where export prices are in decline. This viewpoint, however, is without regard to the desire to impose effective measures to remove the injurious impacts of dumping, often following prolonged periods of sustained dumping and injury to the Australian industry.

OneSteel submits that the intended effect of anti-dumping measures is to ensure export prices are non-injurious to the effected Australian industry. Measures applied

² Guidelines on the application of Forms of Dumping Duty - November 2013 , p 11

³ Circumvention: closing the loopholes Inquiry into Australia's anti-circumvention framework in relation to anti-dumping measures House of Representatives Standing Committee on Agriculture and Industry May 2015 p. xiii.

that do not remove the injurious effect of dumping are ineffective and must be reviewed immediately. It is an important fundamental cornerstone of Australia's Anti-Dumping System that measures imposed are effective and adequately address the injury they are intended to prevent.

For these reasons, OneSteel submits that the preferred form of measure to apply to the dumped and injurious exports from Indonesia and Taiwan is that based upon the combination method.

(b) Normal value and "all other exporters" dumping margin rate

Report No. 240 includes normal values for the "All Other Exporters" category for each of Indonesia and Taiwan. Exports from Indonesia throughout the investigation period were made by two exporters only – PT Gunung Rajapaski ("Gunung") and Ispat. In respect of exports from Taiwan across the investigation period, the sole exporter was Taiwan.

The Commission calculated individual normal values and export prices for the cooperative exporters (i.e. Gunung, Ispat and Quintain). Normal values and export prices were also determined for uncooperative exporters. The Commission established normal values and export prices for uncooperative exporters under s.269TAC(6) and s.269TAC(3) using data obtained from the cooperative exporters and in accordance with s.269TACAB(1) of the Customs Act.

The dumping margins determined for the uncooperative exporters, however, are at the same level as the cooperative exporters in Indonesia and Taiwan (i.e. for Indonesia, the dumping margin is 10.1 per cent for Gunung and the uncooperative exporters; for Taiwan the dumping margin is 2.7 per cent for Quintain and the uncooperative exporters).

OneSteel submits that the Commission has erred in assigning the uncooperative exporters in Indonesia and Taiwan the same normal values, export prices and dumping margins as would ordinarily be assigned to the "residual" category of exporters. Whilst OneSteel recognises that the cooperative exporters in both countries were the only exporters identified in the investigation period, the normal value assigned to uncooperative exporters should not include adjustments under s.269TAC(8) that were granted to cooperative exporters.

OneSteel contends that the Parliamentary Secretary has erred in assigning uncooperative exporters the same normal value, export price and dumping margin as was assigned to cooperative exporters in Indonesia and Taiwan. The ADRP is requested to review this error and recommend that the correct and preferable normal value for uncooperative exporters does not include s.269TAC(8) adjustments that were afforded to cooperative exporters.

III. Review Request

OneSteel contends that the correct and preferred form of anti-dumping measure to be applied to RIC exported from Indonesia and Taiwan is that based upon the combination method involving a fixed and variable component measure to ensure the Australian industry manufacturing like goods is not subjected to further injury through the exporter artificially reducing export prices to avoid the intended effect of the anti-dumping duties.

It is also OneSteel's view that the Parliamentary Secretary has erred in her acceptance of the Commission's recommended normal values for uncooperative exporters in

Indonesia and Taiwan. Normal values for uncooperative exporters should not include adjustments afforded to cooperative exporters.

OneSteel welcomes any questions concerning this application for review of the Parliamentary Secretary's decisions as contained in Report No. 240.

**APPLICATION FOR REVIEW
OF A DECISION BY THE MINISTER
WHETHER TO PUBLISH
A DUMPING DUTY NOTICE OR
A COUNTERVAILING DUTY NOTICE**

Anti-Dumping Review Panel
c/o Legal Services Branch
Department of Industry and Science
10 Binara Street
Canberra City
ACT 2601
P: +61 2 6276 1781
F: + 61 2 6213 6821
E: ADRP@industry.gov.au

INFORMATION FOR APPLICANTS

WHAT DECISIONS ARE REVIEWABLE BY THE ANTI-DUMPING REVIEW PANEL?

The role of the Anti-Dumping Review Panel (the ADRP) is to review certain decisions made by the Minister responsible for the Department of Industry and Science, or by the Anti-Dumping Commissioner (the Commissioner).

The ADRP may review decisions made by the Commissioner:

- to reject an application for dumping or countervailing measures
- to terminate an investigation into an application for dumping or countervailing measures
- to reject or terminate examination of an application for duty assessment, and
- to recommend to the Minister the refund of an amount of interim duty less than the amount contended in an application for duty assessment, or waiver of an amount over the amount of interim duty paid.

The ADRP may review decisions made by the Minister, as follows:

Investigations:

- to publish a dumping duty notice
- to publish a countervailing duty notice
- not to publish a dumping duty notice
- not to publish a countervailing duty notice

Review inquiries, including decisions

- to alter or revoke a dumping duty notice following a review inquiry
- to alter or revoke a countervailing duty notice following a review inquiry
- not to alter a dumping duty notice following a review inquiry
- not to alter a countervailing duty notice following a review inquiry
- that the terms of an undertaking are to remain unaltered
- that the terms of an undertaking are to be varied
- that an investigation is to be resumed
- that a person is to be released from the terms of an undertaking

Continuation inquiries:

- to secure the continuation of dumping measures following a continuation inquiry
- to secure the continuation of countervailing measures following a continuation inquiry
- not to secure the continuation of dumping measures following a continuation inquiry
- not to secure the continuation of countervailing measures following a

continuation inquiry.

Anti-circumvention inquiries:

- to alter a dumping duty notice following an anti-circumvention inquiry;
- to alter a countervailing duty notice following an anti-circumvention inquiry;
- not to alter a dumping duty notice following an anti-circumvention inquiry; and
- not to alter a countervailing duty notice following an anti-circumvention inquiry.

Before making a recommendation to the Minister, the ADRP may require the Commissioner to:

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within a specified time period.

The ADRP only has the power to make **recommendations** to the Minister to affirm the reviewable decision or to revoke the reviewable decision and substitute with a new decision. The ADRP has no power to revoke the Minister's decision or substitute another decision for the Minister's decision.

WHICH APPLICATION FORM SHOULD BE USED?

It is essential that applications for review be lodged in accordance with the requirements of the *Customs Act 1901* (the Act). The ADRP does not have any discretion to accept an invalidly made application or an application that was lodged late.

Division 9 of Part XVB of the Act deals with reviews by the ADRP. Intending applicants should familiarise themselves with the relevant sections of the Act, and should also examine the explanatory brochure (available at www.adreviewpanel.gov.au).

There are separate application forms for each category of reviewable decision made by the Commissioner, and for decisions made by the Minister. It is important for intending applicants to ensure that they use the correct form.

This is the form to be used when applying for ADRP review of a decision of the Minister whether to publish a dumping duty notice or countervailing duty notice (or both). It is approved by the Commissioner pursuant to s 269ZY of the Act.

WHO MAY APPLY FOR REVIEW OF A MINISTERIAL DECISION?

Any interested party may lodge an application for review to the ADRP of a review of a ministerial decision. An “interested party” may be:

- if an application was made which led to the reviewable decision, the applicant
- a person representing the industry, or a portion of the industry, which produces the goods which are the subject of the reviewable decision
- a person directly concerned with the importation or exportation to Australia of the goods
- a person directly concerned with the production or manufacture of the goods
- a trade association, the majority of whose members are directly concerned with the production or manufacture, or the import or export of the goods to Australia, or
- the government of the country of origin or of export of the subject goods.

Intending applicants should refer to the definition of “interested party” in s 269ZX of the Act to establish whether they are eligible to apply.

WHEN MUST AN APPLICATION BE LODGED?

An application for a review must be received within 30 days after a public notice of the reviewable decision was first published in a national Australian newspaper (s 269ZZD).

The application is taken as being made on the date upon which it is received by the ADRP after it has been properly made in accordance with the instructions under ‘Where and how should the application be made?’ (below).

WHAT INFORMATION MUST AN APPLICATION CONTAIN?

An application should clearly and comprehensively set out the grounds on which the review is sought, and provide sufficient particulars to satisfy the ADRP that the Minister’s decision should be reviewed. It is not sufficient simply to request that a decision be reviewed.

The application should include a statement identifying what the applicant considers the correct or preferable decision should be, that may result from the grounds the applicant has raised in the application. There may be more than one such correct or preferable decision that should be identified, depending on the grounds that have been raised.

The application must contain a full description of the goods to which the application relates and a statement setting out the applicant’s reasons for believing that the reviewable decision is not the correct or preferable decision (s 269ZZE).

If an application contains information which is confidential, or if publication of information contained in the application would adversely affect a person's business or commercial interest, the application will be rejected by the ADRP unless an appropriate summary statement has been prepared and accompanies the application.

If the applicant seeks to bring confidential information to the ADRP's attention (either in their application or subsequently), the applicant must prepare a summary statement which contains sufficient detail to allow the ADRP to reasonably understand the substance of the information, but the summary must not breach the confidentiality or adversely affect a person's business or commercial interest (s 269ZZY).

While both the confidential information and the summary statement must be provided to the ADRP, only the summary statement will be lodged on the public record maintained by the ADRP (s 269ZZX). The ADRP is obliged to maintain a public record for review of decisions made by the Minister, and for termination decisions of the Commissioner. The public record contains a copy of any application for review of a termination decision made to the ADRP, as well as any information given to the ADRP after an application has been made. Information contained in the public record is accessible to interested parties upon request.

Documents containing confidential information should be clearly marked "Confidential" and documents containing the summary statement of that confidential information should be clearly marked "Non-confidential public record version", or similar.

The ADRP does not have any investigative function, and must take account only of information which was before the Minister when the Minister made the reviewable decision (s269ZZ). The ADRP will disregard any information in applications and submissions that was not available to the Minister.

HOW LONG WILL THE REVIEW TAKE?

The timeframes for a review by the ADRP will be dependent on whether the ADRP requests the Commissioner to reinvestigate specific findings or findings that formed the basis of the reviewable decision.

If reinvestigation is not required

Unless the ADRP requests the Commissioner to reinvestigate a specific finding or findings, the ADRP must make a report to the Minister:

- - at least 30 days after the public notification of the review;
- - but no later than 60 days after that notification.

In special circumstances the Minister may allow the Review Panel a longer period for completion of the review (s 269ZZK(3)).

If reinvestigation is required

If the ADRP requests the Commissioner to reinvestigate a specific findings or findings, the Commissioner must report the results of the reinvestigation to the ADRP within a specified period.

Upon receipt of the Commissioner's reinvestigation report, the ADRP must make a report to the Minister within 30 days.

WHAT WILL BE THE OUTCOME OF THE REVIEW?

At the conclusion of a review, the ADRP must make a report to the Minister, recommending that the:

- - Minister affirm the reviewable decision (s 269ZZK(1)(a)), or
- - Minister revoke the reviewable decision and substitute a specified new decision (s 269ZZK(1)(b)).

After receiving the report from the ADRP the Minister must:

- - affirm his/her original decision; or
- - revoke his/her original decision and substitute a new decision.

The Minister has 30 days to make a decision after receiving the ADRP's report, unless there are special circumstances which prevent the decision being made within that period. The Minister must publish a notice if a longer period for making a decision is required (s 269ZZM).

WHERE AND HOW SHOULD THE APPLICATION BE MADE?

Applications must be EITHER:

- - lodged with, or mailed by prepaid post to:

**Anti-Dumping Review Panel
c/o Legal Services Branch
Department of Industry and Science
10 Binara Street
Canberra City ACT 2601
AUSTRALIA**

- - OR emailed to:

ADRP@industry.gov.au

- - OR sent by facsimile to:

**Anti-Dumping Review Panel
c/o Legal Services Branch
+61 2 6213 6821**

WHERE CAN FURTHER INFORMATION BE OBTAINED?

Further information about **reviews by the ADRP** can be obtained at the ADRP website (www.adreviewpanel.gov.au) or from:

Anti-Dumping Review Panel
c/o Legal Services Branch
Department of Industry and Science
10 Binara Street
Canberra City ACT 2601
AUSTRALIA

Telephone: +61 2 6276 1781
Facsimile: +61 2 6213 6821

Inquiries and requests for **general information about dumping matters** should be directed to:

Anti-Dumping Commission
Department of Industry and Science
Ground Floor Customs House
1010 Latrobe Street
MELBOURNE 3008

Telephone: 1300 884 159
Facsimile: 1300 882 506
Email: clientsupport@adcommission.gov.au

FALSE OR MISLEADING INFORMATION

It is an offence for a person to give the ADRP written information that the person knows to be false or misleading in a material particular.

(Penalty: 20 penalty units – this equates to \$3400).

PRIVACY STATEMENT

The collection of this information is authorised under section 269ZZE of the *Customs Act 1901*. The information is collected to enable the ADRP to assess your application for the review of a decision to publish a dumping duty notice or countervailing duty notice.

**APPLICATION FOR REVIEW OF
DECISION OF THE MINISTER WHETHER TO PUBLISH A DUMPING DUTY
NOTICE OR COUNTERVAILING DUTY NOTICE**

Under s 269ZZE of the *Customs Act 1901* (Cth), I hereby request that the Anti-Dumping Review Panel reviews a decision by the Minister responsible for Australian Customs and Border Protection Service:

to publish : ✓ ® a dumping duty notice(s), and/or (ex Indonesia + Taiwan)
 ® a countervailing duty notice(s)

OR

not to publish : ® a dumping duty notice(s), and/or
 ® a countervailing duty notice(s)

in respect of the goods which are the subject of this application.

I believe that the information contained in the application:

- - provides reasonable grounds to warrant the reinvestigation of the finding or findings that formed the basis of the reviewable decision that are specified in the application
- - provides reasonable grounds for the decision not being the correct or preferable decision, and
- - is complete and correct to the best of my knowledge and belief.

I have included the following information in an attachment to this application:

Name, street and postal address, and form of business of the applicant (for example, company, partnership, sole trader).

Name, title/position, telephone and facsimile numbers and e-mail address of a contact within the organisation.

Name of consultant/adviser (if any) representing the applicant and a copy of the authorisation for the consultant/adviser.

Full description of the imported goods to which the application relates.

The tariff classification/statistical code of the imported goods.

A copy of the reviewable decision.

Date of notification of the reviewable decision and the method of the notification.

A detailed statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision.

a statement identifying what the applicant considers the correct or preferable decision should be, that may result from the grounds the applicant has raised in the application. There may be more than one such correct or preferable decision that should be identified, depending on the grounds that have been raised.

[If the application contains material that is confidential or commercially sensitive] an additional non- confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Signature:.....

Name:.....Matthew Gordon

Position:.....MANAGER, TRADE DEVELOPMENT

Applicant Company/Entity:

.....ONESTEEL

Date: 16 / 07 / 2015



ROD IN COILS EXPORTED FROM THE REPUBLIC OF INDONESIA, TAIWAN AND THE REPUBLIC OF TURKEY

Findings in Relation to a Dumping Investigation

Public notice under subsections 269TG (1) and (2) of the Customs Act 1901

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed the investigation into the alleged dumping of rod in coils (the goods) exported to Australia from the Republic of Indonesia (Indonesia), Taiwan and the Republic of Turkey (Turkey).

The goods are classified to the following tariff subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

- tariff subheading 7213.91.00 with statistical code 44; and
- tariff subheading 7227.90.90 with statistical code 42.

A full description of the goods is available in Anti-Dumping Notice No. 2014/27, which is available on the internet at www.adcommission.gov.au

The Commissioner reported his findings and recommendations to me in *Anti-Dumping Commission Report No. 240* (REP 240). REP 240 outlines how the Anti-Dumping Commission (the Commission) carried out the investigation and recommends the publication of a dumping duty notice in respect of certain goods.

On 13 May 2015, the Commissioner terminated part of the investigation into the goods exported from Indonesia by PT Ispat Indo (Ispat), and from Turkey by all exporters. *Termination Report No. 240* sets out the reasons for this termination, and is available on the internet at www.adcommission.gov.au.

I have considered REP 240 and have accepted the Commissioner's recommendations and reasons for the recommendations, including all material findings of fact or law on which the Commissioner's recommendations were based, and particulars of the evidence relied on to support the findings.

The method used to compare export prices and normal values to establish the dumping margin was to compare the weighted average export prices with corresponding normal values over the investigation period in terms of subsection 269TACB(2)(a) of the *Customs Act 1901* (the Act). The normal value was established under subsections 269TAC(1) and 269TAC(6) of the Act. The export price was established under subsections 269TAB(1)(a) and 269TAB(3) of the Act.

Particulars of the dumping margins that have been established in respect of rod in coils exported from Indonesia and Taiwan are set out in the table below.

Country	Exporter / Manufacturer	Dumping margin and effective rate of dumping duty
Indonesia	Gunung	10.1%
	All other exporters (excluding PT Ispat Indo)	10.1%
Taiwan	Quintain	2.7%
	All other exporters	2.7%

The effective rate of duty that has been determined is an amount worked out in accordance with the ad valorem duty method, as detailed in the table above.

I, KAREN LESLEY ANDREWS, Parliamentary Secretary to the Minister for Industry and Science, have considered, and accepted, the recommendations of the Commissioner, including the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in REP 240.

I am satisfied, as to the goods that have been exported to Australia from Indonesia (except by PT Ispat Indo) and Taiwan, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods might have been caused if the security had not been taken. Therefore under subsection 269TG(1) of the Act, I **DECLARE** that section 8 of the *Dumping Duty Act* applies to:

(i) the goods; and

(ii) like goods that were exported to Australia after 2 March 2015 (when the Commissioner made a preliminary affirmative determination under section 269TD of the Act that there appeared to be sufficient grounds for the publication of a dumping duty notice) but before the publication of this notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been caused or is being caused. Therefore under subsection 269TG(2) of the Act, I **DECLARE** that section 8 of the *Dumping Duty Act* applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from Indonesia (except for PT Ispat Indo) and Taiwan. Measures apply to goods that are exported to Australia after publication of this notice. Measures also apply to goods that were exported to Australia after the Commissioner made a preliminary affirmative determination to the day before my decision was published. The considerations relevant to my determination of material injury to the Australian industry caused by dumping are the size of the dumping margins, the effect of dumped imports on Australian industry prices and the consequent impact on the Australian industry including reduced sales volumes, reduced market share, reduced revenues, price depression, price suppression, reduced profits, reduced profitability, reduced employment and reduced attractiveness for reinvestment.

In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor other than the exportation of dumped goods, and have not attributed injury caused by other factors to the exportation of those dumped goods.

Interested parties may seek a review of my decision by lodging an application with the Anti-Dumping Review Panel, in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

Particulars of the export prices, non-injurious prices, and normal values of the goods (as ascertained in the confidential tables to this notice) will not be published in this notice as they may reveal confidential information.

Clarification about how anti-dumping measures are applied to 'goods on the water' is available in Australian Customs Dumping Notice No. 2012/34, available at www.adcommission.gov.au.

REP 240 and other documents included in the public record may be examined at the Commission's office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au.

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2437, fax number +61 3 8539 2499 or email at operations1@adcommission.gov.au.

Dated this 3rd day of June 2015.

KAREN LESLEY ANDREWS

Parliamentary Secretary to the Minister for Industry and Science



ANTI-DUMPING NOTICE NO. 2015/76

Rod in Coils

Exported from the Republic of Indonesia, Taiwan and the Republic of Turkey

Findings in relation to a dumping investigation

Customs Act 1901 – Part XVB

I, Dale Seymour, Commissioner of the Anti-Dumping Commission have completed the investigation into the alleged dumping of rod in coils (the goods) exported to Australia from the Republic of Indonesia (Indonesia), Taiwan and the Republic of Turkey (Turkey) following an application lodged by OneSteel Manufacturing Pty Ltd. This notice is in respect of rod in coils exported to Australia from Indonesia and Taiwan.

The goods are classified to the following tariff subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

- tariff subheading 7213.91.00 with statistical code 44; and
- tariff subheading 7227.90.90 with statistical code 42.

A full description of the goods is available in Anti-Dumping Notice No. 2014/27, which is available on the Commission's website at www.adcommission.gov.au

I reported my findings and recommendations to the Parliamentary Secretary to the Minister for Industry and Science (Parliamentary Secretary) in *Anti-Dumping Commission Report No. 240* (REP 240). REP 240 describes how the Anti-Dumping Commission (Commission) carried out the investigation and recommended the publication of a dumping duty notice in respect of the goods exported from Indonesia by all exporters other than PT Ispat Indo (Ispat), and from Taiwan.

The Parliamentary Secretary has considered REP 240 and has decided to accept my recommendations and reasons for the recommendations, including all material findings of fact or law on which my recommendations were based, and particulars of the evidence relied on to support the findings.

Notice of the Parliamentary Secretary's decision was published in *The Australian* newspaper and the *Commonwealth of Australia Gazette* on 17 June 2015.

On 13 May 2015, I terminated the dumping investigation into the goods exported from Indonesia by Ispat and from Turkey. No dumping duty is payable on imports to Australia of rod in coils from Ispat or from Turkey. *Termination Report No. 240* (TER 240) sets out the reasons for this termination. That report is available on the Commission's website at www.adcommission.gov.au.

In REP 240, the Commission found that:

- rod in coils exported to Australia from Indonesia by all exporters other than Ispat were dumped with a margin of 10.1 per cent;
- rod in coils exported to Australia from Taiwan were dumped with a margin of 2.7 per cent;
- the dumped exports from Indonesia and Taiwan caused material injury to the Australian industry producing like goods; and
- continued dumping from Indonesia and Taiwan may cause further material injury to the Australian industry.

Accordingly, I recommended that a dumping duty notice in respect of rod in coils exported from Indonesia by all exporters other than Ispat, and from Taiwan be published in accordance with subsections 269TG(1) and 269TG(2) of the *Customs Act 1901* (the Act).

The method used to compare export prices and normal values to establish the dumping margin was to compare the weighted average export prices with corresponding normal values over the investigation period under subsection 269TACB(2)(a) of the *Customs Act 1901* (the Act). The normal value was established under subsections 269TAC(1) and 269TAC(6) of the Act. The export price was established under subsections 269TAB(1)(a) and 269TAB(3) of the Act.

Particulars of the dumping margins that have been established in respect of rod in coils exported from Indonesia and Taiwan are set out in the table below.

Country	Exporter / Manufacturer	Dumping margin and effective rate of duty
Indonesia	PT Gunung Rajapaksi	10.1%
	All other exporters (excluding PT Ispat Indo)	10.1%
Taiwan	Quintain Steel Co Ltd	2.7%
	All other exporters	2.7%

The effective rate of duty that has been determined is an amount worked out in accordance with the ad valorem duty method, as detailed in the table above.

Measures apply to goods that are exported to Australia after the publication of the Parliamentary Secretary's decision. Measures also apply to goods that were exported to Australia after the Commissioner made a preliminary affirmative determination to the day before the Parliamentary Secretary's decision was published.

Any dumping securities that have been taken on and from 2 March 2015 will be converted to interim dumping duty.¹ Pursuant to section 12 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), conversion of securities to interim duty will not exceed the level of security taken. Importers will be contacted by the Australian Customs and Border Protection Service detailing the required conversion action for each security taken.

To preserve confidentiality, the export price, normal value and non-injurious price applicable to the goods will not be published. Bona fide importers of the goods can obtain details of the rates from the Commission.

¹ Within the time limitations of section 45 of the *Customs Act 1901*.

Clarification about how measures are applied to 'goods on the water' is available in Australian Customs Dumping Notice No. 2012/34, available at www.adcommission.gov.au.

Affected parties should contact the Commission on telephone number 13 28 46 or +61 2 6213 6000 (outside Australia) or email at clientsupport@adcommission.gov.au for further information regarding the actual duty liability calculation in their particular circumstance.

Interested parties may seek a review of the Parliamentary Secretary's decision by lodging an application with the Anti-Dumping Review Panel in accordance with the requirements in Division 9 of Part XVB of the Act within 30 days of the publication of the Parliamentary Secretary's notice of decision.

REP 240 has been placed on the Commission's public record, which may be examined at the Commission's office by contacting the Case Manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au.

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2437, fax number +61 3 8539 2499 (outside Australia) or email at operations3@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

17 June 2015