



Australian Government  
Department of Industry,  
Innovation and Science

## Anti-Dumping Commission

Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601

Ms Jaclyne Fisher  
Panel Member, Anti-Dumping Review Panel  
c/o- ADRP Secretariat

By e-mail: [ADRP@industry.gov.au](mailto:ADRP@industry.gov.au)

Dear Ms Fisher

**Review 2019/108 – Steel Reinforcing Bar exported from the Republic of Korea and Taiwan (with the exception of Power Steel Co. Ltd)**

I write with regard to the notice under section 269ZZI of the *Customs Act 1901* (Cth) (the Act) published on 22 July 2019, advising of your intention to review the decision of the Minister for Industry, Science and Technology (the Minister) to publish a notice under section 269ZDB(1) of the Act (the Reviewable Decision). This notice was published on the website of the Anti-Dumping Commission (the Commission) on 31 May 2019, as Anti-Dumping Notice No. 2019/54.

I understand that the Commission has provided you with the information that was requested of the Commissioner in your correspondence of 22 July 2019, that is:

1. the confidential attachments to the Statement of Essential Facts (SEF) relevant to the grounds of the review application;
2. parties' submissions to the ADC commenting on the SEF including confidential attachments relevant to the grounds of the applications for review;
3. the confidential attachments to the Final Report;
4. other relevant information (as defined in section 269ZZK of the Act) pertinent to the grounds of review raised by the Applicants, including:
  - a. the export visit reports and work programs relating to the two major exporters, as well as the Commission's confidential spreadsheets regarding the calculation of the export price, normal value and dumping margin for these exporters; and
  - b. the Commission's confidential spreadsheet regarding the calculation of the export price, normal value and dumping margin for uncooperative and all other exporters.

I have considered the application submitted by Liberty OneSteel (Newcastle) Pty Ltd (Liberty Steel)<sup>1</sup> for a review of the Reviewable Decision and make submissions, pursuant to section 269ZZJ(aa) of the Act, at **Attachment A**.

A non-confidential version of the submission has been provided.

The Commission remains at your disposal to assist you in this matter, and would be happy to participate in a conference if you consider it appropriate to do so.

Yours sincerely

Paul Sexton  
General Manager, Investigations  
Anti-Dumping Commission

21 August 2019

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<sup>1</sup> From 17 July 2019, Liberty OneSteel (Newcastle) Pty Ltd changed its corporate name to InfraBuild (Newcastle) Pty Ltd.  
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**Background**

1. On 1 August 2018 the Commissioner initiated a review of anti-dumping measures with respect to steel reinforcing bar (rebar) exported to Australia from the Republic of Korea (Korea) and Taiwan following receipt of two separate applications for a review of variable factors by Liberty Steel and DITH Australia Pty Ltd (DITH).<sup>2</sup>
2. On 31 May 2019, the Anti-Dumping Commission (the Commission) published a notice signed by the Minister for Industry, Science and Technology (the Minister) in which she declared that, with effect from the date of publication of the notice, the dumping duty notice currently applying to the goods exported to Australia from Korea and Taiwan (with the exception of Power Steel Co. Ltd) is to be taken to have effect as if different variable factors had been fixed in respect of all exporters generally, relevant to the determination of duty.<sup>3</sup> This notice was published pursuant to section 269ZDB(1) of the Act (the Reviewable Decision).
3. In the Reviewable Decision, the Minister stated that she made the Reviewable Decision following consideration, and acceptance of, recommendations made by the Commissioner on 17 April 2019, as set out in *Anti-Dumping Commission Report No. 486 and 489* (REP 486 & 489).<sup>4</sup> This report outlined the Commissioner's inquiries, material findings of fact and law on which his recommendations were based and evidence relied upon to support those findings.
4. Liberty Steel have made an application for review of the Reviewable Decision by the ADRP. The Commission understands this application was made pursuant to section 269ZZ(1)(b) of the Act.

**Application of Review submitted by Liberty Steel**

**Normal value – Wei Chih Steel Industrial Co. Ltd (Wei Chih)**

5. In its application, Liberty Steel submit that the reviewable decision was not correct or preferable because the Minister's determination of the normal value for Wei Chih under section 269TAC(2)(c) was not authorised by the terms of section 269TAC(2)(a)(i) because the Minister ought not to have been satisfied that there was an absence, or low volume, of sales of like goods by Wei Chih in Taiwan that would be relevant for the purpose of determining a price under section 269TAC(1).<sup>5</sup>
6. In determining the normal values for Wei Chih, the Commission had regard to the models of rebar sold into the domestic Taiwanese market. The Commission found that domestic sales of grade SD490, the most directly comparable grade to the particular model exported to Australia (i.e. grade 500N), were absent.
7. While other grades of rebar were sold on the domestic market in the ordinary course of trade, in this instance the differences in grade meant that those goods could not be

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<sup>2</sup> EPR 489, document 3.

<sup>3</sup> Ibid, document 24.

<sup>4</sup> Ibid, document 25.

<sup>5</sup> Liberty Steel application, page 5.

properly compared to the goods exported to Australia. The Commission notes that differences in grade relate to differences in specifications (e.g. yield strength) that can affect price comparability.

8. While the Commission was satisfied that grade affected price comparability, as outlined below in paragraphs 15 and 16, the Commission was unable to quantify the differences in price comparability and was, therefore, unable to make the required adjustment under section 269TAC(8).
9. The Commission notes that section 269TAC sets out a hierarchy for calculating normal value. Where there is an absence of sales that would be relevant for the purpose of determining a price under section 269TAC(1), the Commission must determine normal value under section 269TAC(2)(c) or section 269TAC(2)(d).
10. Therefore, in regard to Wei Chih, having determined that there was an absence of sales of domestic models in the domestic market that were comparable to the models exported to Australia, the Commission had regard to section 269TAC(2)(c) of the Act. Specifically, the normal value was constructed by taking the sum of:
  - the cost of production or manufacture of the goods in the country of export; and
  - on the assumption the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade (OCOT) in the country of export, the SG&A costs associated with the sale, and an amount for profit.

Pursuant to section 269TAC(2)(c) of the Act, the Commission followed the conditions set out in sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015*.

11. Liberty Steel agree that grade SD490 is the most directly comparable grade to the particular model exported to Australia (i.e. grade 500N). However, Liberty Steel claims that grade SD420W or grade SD420 may also be considered comparable goods to the exported grade 500N provided the necessary adjustments are made to ensure proper comparison. Noting the Commission established an absence of domestic sales of grade SD490 in the domestic Taiwanese market, Liberty Steel submit it was not correct or preferable for the Commission to not have regard to domestic sales of grade SD420W or grade SD420, provided the appropriate adjustments are made.
12. Liberty Steel provided submissions during the course of the reviews raising the above points.<sup>6</sup> These points were addressed in REP 486 & 489 where the Commission stated it had considered the characteristics between the domestic models (grades SD420 and SD420W) that Liberty Steel argues are comparable to the exported models of rebar.<sup>7</sup> The Commission concluded that grades S420 and S420W were different in chemical composition and grade standards to the export model; specifically that the domestic model includes a strengthening alloy while the export model is water quenched, and noting that the domestic model does not meet Australian standards. For this reason, the Commission concluded that there were insufficient sales of domestic models appropriately comparable to the export price, and constructing the normal value under section 269TAC(2)(c) was the correct approach.

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<sup>6</sup> EPR 489 - documents 6, 15 and 18.

<sup>7</sup> REP 486 and 489, section 4.5.6.

13. In their application, Liberty Steel address the statements made by the Commission in REP 486 & 489.<sup>8</sup> Liberty Steel query the Commission's reasoning regarding the presence of strengthening alloys in domestic models but not in export models. Liberty Steel then reiterate that an upward specification adjustment to the comparable SD420 or SD420W grades ought to have been made because of the price premium applied by a Taiwanese producer of rebar for grade SD490 over SD420. In support of this claim, Liberty Steel provided confidential evidence to illustrate the price premium. While Liberty Steel queries the reasons for not having regard to domestic sales of like goods, it does not dispute that an adjustment is required to ensure the domestic goods are comparable to the exported grade.
14. The Commission has considered the claims made by Liberty Steel and the analysis contained in REP 486 & 489. The Commissioner accepts that micro-strengthening alloys are present in both the models of rebar exported by Wei Chih to Australia and the models of rebar sold by Wei Chih on the domestic market. In addition, although only the exported models of rebar receive the additional treatment of water quenching, the Commissioner does not consider this sufficient to determine that the exported model (500N) and the domestic models (SD420 and SD420W) are not comparable models. In coming to this assessment, the Commissioner has considered the cost of the additional treatment and the significance of the impact/effect on the goods.
15. The Commission considered whether it could base a normal value on domestic sales of grades S420 or S420W and make an upwards specification adjustment to account for the difference between these grades and the most comparable model on the domestic market, grade SD490. However, as there was an absence of sales of grade SD490 on the domestic Taiwanese market, the Commission did not have sufficient data to quantify the price differential between grades SD420/SD420W and grade SD490. In addition, there was an absence of other information that may have been relevant to quantifying this price difference on the Taiwanese domestic market, for example price lists or market reports.
16. Liberty Steel's submissions during the course of the review, and their application to the ADRP, propose that the Commission have regard to evidence it has obtained to illustrate the price premium for grade SD490 over grade SD420. For the reasons outlined in **Confidential Attachment 1**, the Commission does not consider this evidence sufficient for the purposes of quantifying an upwards adjustment.
17. As outlined in the Anti-Dumping Policy Manual (the Manual), where a criterion under section 269TAC(2)(a) is met, the Commission's preferred approach is to determine normal values under section 269TAC(2)(c) provided cost data is available. The Commission has cost data from Wei Chih which it verified and considers suitable for determining normal values under section 269TAC(2)(c).
18. The Commission therefore considers that, based on the information available, it is correct and preferable to follow its stated policy and to calculate the normal value under section 269TAC(2)(c).

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<sup>8</sup> Liberty Steel application, Appendix B.

**Normal value – all other exporters of the goods from Taiwan**

19. In their application Liberty Steel claim that the Minister's determination of the normal value for all other exporters of the goods from Taiwan (with the exception of Power Steel Co. Ltd) under section 269TAC(6) of the Act was not the correct or preferable decision to the extent that it relies on the normal value determined for Wei Chih incorrectly under section 269TAC(2)(c) of the Act.<sup>9</sup>
20. As outlined above in paragraphs 14 to 18, the Commissioner maintains that the correct and preferable decision was to construct a normal value for Wei Chih pursuant to section 269TAC(2)(c).
21. Therefore, the Commissioner considers that it is correct and preferable for the Commission to rely on the normal value determined for Wei Chih under section 269TAC(2)(c) in determining the normal value for all other exports of the goods from Taiwan (with the exception of Power Steel Co. Ltd).

**Normal value – Daehan Steel Co. Ltd (Daehan)**

***Credit Costs***

22. Liberty Steel claim that the Minister's decision to direct that the normal value of the goods exported to Australia by Daehan be adjusted for differences in the exporter's domestic credit costs is not supported by section 269TAC(8) of the Act and is therefore not the correct or preferable decision.
23. Liberty Steel claim that Daehan have moved to manufacturing downstream products, not just producing like goods. Liberty Steel further claim that any downwards adjustment for domestic credit should be resisted as they more accurately are associated with the selling and marketing of the downstream processed products.
24. Liberty Steel further claim that even if the Commission only considered credit terms relevant to like goods, consideration of actual accounts receivable days is relevant and necessary to the Commission's inquiry. Liberty Steel state they have observed that pre-payment for the goods is not uncommon within the Korean domestic market.
25. The Commission has considered its determination of normal value for Daehan and adjustments that were made to the normal value. The Commission's determination of normal value was limited to like goods produced by Daehan, and not further downstream products. In addition, the Commission considered the actual credit costs claimed by Daehan. As part of the verification visit to Daehan, the Commission considered selected domestic sales and the methodology to determine credit costs. The Commissioner is satisfied that the credit costs claimed by Daehan have actually been incurred and reported accurately.<sup>10</sup> The Commission notes that the net result of the credit terms adjustments is less than 0.5% of the normal value for Daehan during the review period.

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<sup>9</sup> Liberty Steel application, page 6.

<sup>10</sup> EPR 489 - document 13.



***Like goods***

26. Liberty Steel further claim that the Minister's decision to determine the normal value of the 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 section 269TAC(1) of the Act and is therefore not the correct or preferable decision.
27. Specifically, Liberty Steel query the extent to which the Commission confirmed that certain models of goods sold on the domestic market were like goods, and the resultant impact on the determination of normal values for Daehan.
28. In REP 486 & 489, the Commission was satisfied that domestic sales of five models of like goods were in the OCOT. In relation to one export model, there were no sales of an identical model on the domestic market in OCOT. For this model, a specification adjustment was made to the selling price of the next closest matching domestic model with sufficient sales within OCOT to determine the normal value. The Commission was therefore satisfied that the prices paid in respect of domestic sales of rebar were suitable for assessing normal values under section 269TAC(1) of the Act.<sup>11</sup>
29. The Commission notes that different standards apply to the goods (AS/NZS 4671) and like goods (KS D 3504: 2016). Daehan sell the goods to an Australian grade denoted as 500N that Liberty Steel note meets the requirements to be "weldable". Liberty Steel claim that the Korean domestic grade SD500W requires a maximum carbon equivalent value to be specified to ensure pre-qualification for welding – and that for this reason, this model is the most comparable domestic model.
30. The verification visit team did not find sales of SD500W (or another weldable grade) by Daehan on the Korean domestic market, only sales of similar grades SD500 and SD400. The visit team examined a sample of test certificates which demonstrated that Daehan's sales of the Australian grade 500N and Korean grade SD500 were similar in terms of yield strengths and also carbon equivalent values.<sup>12</sup> On this basis, the Commission considers it appropriate to compare Daehan's export sales of Australian grade 500N with its domestic sales of Korean grade SD500.
31. The Commission notes that Liberty Steel did not provide information to demonstrate any price differences between SD500 and SD500W grades on the Korean market. Based on the evidence before the Commission it remains of the view that no specification adjustment is considered necessary in relation to exported grade 500N.

**Normal value – all other exporters of the goods from Korea**

32. In their application Liberty Steel claim that the Minister's determination of the normal value for all other exporters of the goods from Korea under section 269TAC(6) of the Act was not the correct or preferable decision to the extent that it relies on the normal value determined for Daehan incorrectly under section 269TAC(1) of the Act.<sup>13</sup>

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<sup>11</sup> REP 486 & 486, page 16.

<sup>12</sup> Refer to Confidential Attachment 2 – test certificates.

<sup>13</sup> Liberty Steel application, page 6.

33. As outlined above in paragraphs 22 to 31, the Commissioner maintains that it has correctly determined the normal value for Daehan pursuant to section 269TAC(1).
34. Therefore, the Commissioner considers that it is correct and preferable for the Commission to rely on the normal value determined for Daehan under section 269TAC(1) in determining the normal values for all other exports of the goods from Korea.