APPLICATION FOR REVIEW OF A DECISION BY THE ANTI-DUMPING COMMISSIONER TO TERMINATE AN INVESTIGATION

Anti-Dumping Review Panel
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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:

- 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.

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 an ADRP review of a decision of the Commissioner to terminate an investigation into alleged dumping and or subsidisation. It is approved by the Commissioner pursuant to s.269ZY of the Act.

WHO MAY APPLY FOR REVIEW OF A DECISION TO TERMINATE AN INVESTIGATION?

Only the person who lodged the application for the publication of a dumping duty notice and/or a countervailing notice may apply to the ADRP for review of the Commissioner's decision to terminate an investigation into that application.

WHEN MUST AN APPLICATION BE LODGED?

An application for a review must be received within 30 days after the applicant was notified of the Commissioner's decision to terminate the investigation (s 269ZZP).

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 Commissioner'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 269ZZQ(1A)).

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 Commissioner when the Commissioner made the reviewable decision (s 269ZZT(4)). The ADRP will disregard any information in applications and submissions that was not available to the Commissioner.

HOW LONG WILL THE REVIEW TAKE?

The ADRP must make a decision within 60 days of the receipt of the application for review. In special circumstances the Minister may allow the ADRP a longer period for completion of the review (s 269ZZT(5)).

The Review Panel will publish a notice of the decision in a national Australian newspaper and a copy of the decision through www.adreviewpanel.gov.au.

WHAT WILL BE THE OUTCOME OF THE REVIEW?

The ADRP will either affirm the Commissioner's decision or revoke it (s 269ZZT(1)). The ADRP will provide a statement of reasons to the Commissioner and the applicant identifying why the decision was affirmed or revoked.

If the ADRP revokes the Commissioner's decision, the Commissioner must publish a statement of essential facts in relation to the application for a dumping duty notice or countervailing duty notice that is related to the review (s 269ZZT(2)). The investigation then resumes once that statement is published (s 269ZZT(3)).

The ADRP will publish a notice of the decision in a national Australian newspaper and a copy of the decision through www.adreviewpanel.gov.au.

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 269ZZQ of the Customs Act 1901. The information is collected to enable the ADRP to assess your application for the review of a decision to terminate an investigation.

APPLICATION FOR REVIEW OF

DECISION OF THE COMMISSIONER TO TERMINATE AN INVESTIGATION

Under s 269ZZQ of the *Customs Act 1901* (Cth), I hereby request that the Anti-Dumping Review Panel reviews a decision by the Anti-Dumping Commissioner (the Commissioner) to terminate an investigation into whether the Minister should publish:

☑ a dumping 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 for a review to be undertaken
- 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 formation 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: Matt Gordon

Position: Manager Trade Development.

Applicant Company/Entity: OneSteel (Arrium)

Date: 18 / 11 / 2015

PART A: APPLICANT INFORMATION

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

OneSteel Manufacturing Pty Ltd ("OneSteel") is part of Arrium Limited, a publicly listed company on the Australian Stock Exchange. OneSteel is the applicant company requesting a review of the decision of the Commissioner to terminate an anti-dumping investigation into certain reinforcing bar ("re-bar") exported from Thailand, Turkey and Malaysia.

OneSteel's postal address is:

Level 6

205 Pacific Highway

St Leonards NSW 2065

Tel: (02) 8424 9880

Fax: (02) 8424 9885

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

Full name:	Mr Matt Condon
Position:	Manager Trade Development
Email address:	matt.condon@onesteel.com
Telephone number:	(02) 8424 9880
Facsimile number:	(02) 8424 9885

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

Full name:	Mr John O'Connor
Company name:	John O'Connor and Associates Pty Ltd
Position:	Director
Address:	P.O. Box 329, Coorparoo QLD 4151
Email address:	jmoconnor@optusnet.com.au
Telephone number:	(07) 3342 1921

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

The goods the subject of OneSteel's application are:

Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.

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

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

5. The tariff classification/statistical code of the imported goods.

The goods are classified to the tariff subheadings in Schedule 3 to the Customs Tariff Act 1995 specified below. It should be noted that that statistical codes applying to these tariff classifications have been modified subsequent to the initiation of this investigation. The relevant changes are noted in italics:

- 7214.20.00 (statistical code 47);
- 7228.30.90 (statistical code 49 (as of 1 July 2015, statistical code 40));
- 7213.10.00 (statistical code 42)
- 7227.90.90 (statistical code 42 (as of 1 January 2015 statistical codes 02 and 04);

  and

- Tariff subheading 7227.90.10 with statistical code 69.

Goods imported from Spain under the above tariff subheadings are subject to a general rate of duty of 5 per cent and goods imported from all other nominated countries are subject to a "free" rate of duty.

6. A copy of the reviewable decision.

A copy of the reviewable decision is attached.

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

OneSteel received notification of the Commissioner's decision to terminate on 20th October 2015 via a letter from the Anti-Dumping Commission (please see attached).

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

Anti-Dumping Notice ("ADN") No. 2015/122 notified the Commissioner's decision to terminate the investigation into the dumping of steel reinforcing bar ("re-bar" i.e. "the goods") exported from Malaysia, The Kingdom of Thailand ("Thailand") and the Republic of Turkey ("Turkey").

The termination notice in relation to exports of the goods from Malaysia, Thailand and Turkey notified:

- in relation to the goods exported by Ann Joo Steel Berhad (Ann Joo Steel) from Malaysia, Millcon Steel Public Company Limited (Millcon) from Thailand and Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S (Habas) from Turkey, there has been no dumping of the goods and the Commissioner must therefore terminate the investigation in accordance with subparagraph 269TDA(1)(b)(i) of the Act so far as it relates to Ann Joo Steel, Millcon and Habas;

- the goods exported by Power Steel Co., Ltd (Power Steel) from Taiwan were dumped, but because the dumping margin is less than two per cent (and negligible) the Commissioner must terminate the investigation in accordance with subparagraph 269TDA(1)(b)(ii) of the Act so far as it relates to Power Steel; and

- in relation to the goods exported from Malaysia, Thailand and Turkey, the volumes of dumped goods were found to be negligible, and therefore the Commissioner must terminate the investigation in accordance with subsection 269TDA(3) of the Act so far as it relates to Malaysia, Thailand and Turkey.

OneSteel considers that the Commissioner's decision was neither the correct nor the preferred decision as the Commissioner did not conduct a verification visit with any exporter in Malaysia or Turkey and was therefore unable to accurately and correctly conclude that exports from Malaysia and Turkey were at dumped prices. In respect of exports from Thailand, OneSteel also asserts that the Commissioner's decision is incorrect and not the preferred decision as it relates to the dumping margin finding for Millcon as the Commission did not test that Millcon's purchases of billet from its related party supplier, Burapa were at full cost recovery, and the Commission did not further adjust for the rolling tolerance differences (i.e. mass tolerances) between domestic and export sales given that Millcon indicated that it did roll light for domestic purposes.

OneSteel has detailed below the relevant considerations that the Commissioner has failed to take into account in deciding to terminate inquiries in respect of the goods exported from Malaysia, Thailand and Turkey. OneSteel has also examined why the Commissioner's findings in Termination Report No. 264 is not the correct or preferred decision.

<u>Exports of re-bar from Malaysia and Turkey</u>

The Anti-Dumping Commission ('the Commission") did not conduct verification visits with the three Malaysian re-bar exporters that provided completed exporter questionnaire responses ("EQR's") to the Commission. The three cooperative Malaysian rebar exporters were:

- Amsteel Mills Sdn Bhd ("Amsteel");
- Ann Joo Steel Berhad ("Ann Joo"); and
- Southern Steel Berhad ("Southern").

The sole cooperative exporter from Turkey was Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S. ("Habas").

In Statement of Essential Facts No. 264, the Commission stated its reasons for not conducting verification visits with certain exporters. These reasons in relation to exports from Malaysia and Turkey included:

> *"The Commission's decision not to conduct exporter verification visits to the [*above] *cooperating exporters in Malaysia and Turkey and for Power Steel of Taiwan was based on the low volume of exports from the relevant exporters during the investigation period. For example, based on data available to the Commission, both Turkey and Korea each separately constituted between 3 per cent and 4 per cent of total rebar imports during the investigation period.*

And further:

The Commission analysed the data submitted by cooperating exporters that were not visited and was satisfied that the data was reasonably accurate, relevant, complete and without material deficiency. This data was used to calculate dumping margins.

The Commission also noted that:

"*OneSteel disagreed with the Commission's decision not to conduct verification visits to all co-operating exporters and made a submission to this effect*"

OneSteel's submissions dated the 28 April 2015 and the 22nd September 2015 outlined reasons why it was opposed to the Commission's decision not to conduct verification visits with exporters (including those in Malaysia and Turkey). In respect of Malaysia, OneSteel identified that historic import data confirmed that exports from Malaysia were as high as 14 per cent of total imports in 2010/11 and that Malaysian exporters had demonstrated a propensity for increased volumes in earlier periods. The Commission did not take account of the Malaysian exporters' previous export volumes to Australia and only considered the volumes in the nominated investigation period, when assessing whether or not to conduct an on-the-spot verification.

For Turkey, the Commission had previously encountered Habas as an exporter in Investigation No. 240. The Commission also elected not to conduct a verification visit with Habas in Investigation No. 240.

It is OneSteel's contention that the Commission failed to adequately consider the future threat of dumped exports from Malaysian exporters that had previously demonstrated an ability to supply re-bar to the Australian market at significantly increased volumes. The Commission's decision to conclude exports from Malaysia as "low risk" was incorrect. The preferred decision that the Commission should have made was to examine past export volumes for the three cooperative exporters and identify the largest exporter in earlier periods, and conduct a verification visit with the identified exporter.

The Commission, however, elected not to conduct verification visits with Malaysian exporters.

Based upon information contained in the exporter's respective EQR responses, the Commission determined that exports from Ann Joo were at a negative 0.3 per cent, Amsteel 3.2 per cent, and Southern at 4.7 per cent. The export volumes from Amsteel and Southern, however, were negligible (i.e. less than 3 per cent volume of total imports during the investigation period).

Whilst OneSteel acknowledges the Act does n'ot require the Commission to undertake site verifications of all co-operative exporters, OneSteel in its submission dated the 22nd September 2015 noted that the domestic legislation provides for the "sampling" of exporter information under s.269TACAA in certain circumstances. Sampling thereby provides the means by which the Commission, and therefore the Parliamentary Secretary (as the delegate of the Minister), may be satisfied as to the reliability of information, in those prescribed circumstances. Therefore, by implication, where the circumstances prescribed by s.269TACAA are not satisfied, then the Commission is required to examine the information obtained from all exporters to the investigation (in this case). The domestic legislation is, unhelpfully, silent on the meaning of 'examine' in this context. However, as a matter of statutory interpretation, regard may be had to the WTO Anti-Dumping Agreement, specifically, Article 6.6, which provides in part:

"authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based"

Indeed, the practice of on-the-spot verification is entrenched in Article 6.7 of the WTO Agreement, which provides:

"In order to verify information provided, or to obtain further details, **the authorities may carry out investigations in the territory of other Members as required**, provided they obtain the agreement of the firms concerned and notify the representatives of the government of the Member in question, and unless that Member objects to the investigation..." [(**emphasis added**)]

Furthermore, the procedures described in Annex I to the WTO Agreement, establish the practice of on-the-spot verification. This is the most common and acceptable standard applied by other Member States, and apart from *obiter dictum* expressed in a footnote to one Dispute Settlement Panel decision1 , is considered best, and most sound, evidentiary practice.

Therefore, it is OneSteel's contention that if the Commission is unable to examine the information of each exporter's information to the standard required under the WTO Agreement, then the option of sampling

was open to it.

In relation to the Commissions statement that

> *The Commission analysed the data submitted by cooperating exporters that were not visited and was satisfied that the data was **reasonably accurate,** relevant, complete and without material deficiency. This data was used to calculate dumping margins. ([**emphasis added**])*

OneSteel fails to understand how, based simply on a review of exporter questionnaire responses ("EQR's"), the Commission was able to establish the accuracy of the export price, domestic sales and cost data provided".

The WTO Disputes Settlement Panel in *US — DRAMS* stated:

> "Article 6.6 simply requires Members to '**satisfy themselves as to the accuracy of the information'**. In our view, Members could 'satisfy themselves as to the accuracy of the information' in a number of ways without proceeding to some type of formal verification, **including for example reliance on the reputation of the original source of the information**...." [para. 6.78]

Therefore, it is incumbent upon the Commission to demonstrate how they have satisfied themselves of the accuracy of the information. The standard of proof is set by the **overarching** standard of "**reliability**" prescribed in the *Customs Act*, in so far as the Minister "may disregard any information that he or she considers to be unreliable" (subsection 269TAC(7) and 269TAB(4)).

"Reasonableness" therefore is not relevant to establishing the standard of accuracy – the standard is set by the domestic law, which in the case of Australia is one of "reliability". Therefore, the Commission has erred in its interpretation of the standard of proof required under the *Customs Act*.

The Commission's decision not to conduct a verification visit with at least one cooperative exporter in the country of export was not the correct decision. A failure not to verify information in a country of export solely on the grounds that the export volumes for the goods to Australia during the investigation period is deemed "low risk" was not the correct or preferred decision. The absence of suitable benchmark information in the country of export the subject of information substantially diminishes the reliability of the information considered by the Commission. The correct or preferred decision of the Commission would have involved the conduct of verification visits with at least one exporter in both of Malaysia and Turkey (i.e. most likely Ann Joo and Habas) so that the information relied upon for determining dumping margins for other exporters could be adequately benchmarked, and the Minister may properly exercise his or her satisfaction that the evidence is in fact reliable.

Exports of re-bar from Thailand

The Commission conducted a verification visit with Millcon Steel Public Company Limited ("Millcon") of Thailand and determined normal values based upon domestic selling prices under s.269TAC(1) where a sufficient volume of domestic sales that were arm's length transactions and at prices that were in the ordinary course of trade were evident, and under s.269TAC(2)(c) for models where there insufficient volumes of domestic sales.

The weighted average dumping margin determined for exports by Millcon across the investigation period was 0.0 per cent.

Related party transactions

The Millcon Exporter Visit Report confirms that Millcon sources a significant proportion of its billet from a related party supplier, Burapa. The Commission was provided with purchase summaries for billet by Millcon for each quarter of the investigation period, along with detailed line-by-line purchase listings for each month in the March 2014 quarter. As billet accounts for a large cost of the total production of re-bar, the Commission sought to test the purchase prices for re-bar from Burapa by Millcon.

The Commission found that:

> *"...the weighted average purchase price from Burapa was consistently among the highest of its suppliers in each quarter of the investigation period and was the highest on a weighted average basis for the investigation period."*

To test the adequacy of the purchased billet price from Burapa, the Commission compared the Burapa purchase prices to monthly average prices for semi-finished billet in the East Asia region at cost and freight terms sourced from SBB International. The Commission found the prices between the two sources as "comparable". SBB published South Asia billet prices are published at the CFR level and do not reflect the full cost of manufacture for billet, particularly in a region where oversupply of raw material billet is excessive.

This comparison, however, is erroneous. For purchases of raw material billet from related parties, the Commission is required to examine whether the purchase price for billet from Burapa recovers the fully-absorbed costs of production for the billet. The Commission has failed to undertake this critical assessment and require Millcon to demonstrate that the billet is priced to Millcon at full cost recovery.

Adjustment for rolling light

The Commission concluded that there were no significant differences between the theoretical and actual weights sold to Australia or on the Thailand market. This is despite Millcon indicating that it sold all goods according to theoretical weight.

At Section 8.2.5 of the Millcon Report, the Commission details the differing Thai tolerances for goods sold domestically. The Report indicates that Millcon is aware of the tolerance differences between the Australian and Thai standards and that "it does not seek to take advantage of those differences". However, Millcon does state that it "*will generally aim to roll [redacted] per cent lighter than the actual weight*".

The Commission states that it had no reason to doubt Millcon's claims and that as "there were no significant differences" between theoretical and actual weights sold to Australia or on the Thai domestic market" that it did not consider an adjustment to normal value necessary. It further stated that the "*visit team found no evidence that the different rolling tolerances influenced price negotiations*".

OneSteel had indicated to the Commission during exporter briefing sessions the importance of fully validating the different accepted tolerances between International Standards and Australian Standards. OneSteel does not consider that Commission's cursory assessment of Millcon's rolling light analysis for mass tolerances that show minimal differences as sufficient for the purposes of accepting or concluding an absence of contrary evidence.

The Commission is required to be satisfied that information contained in the exporter's EQR is reliable. For the stated claims that Millcon sells on both domestic and export markets on a theoretical weights basis, the Commission would need to investigate the claimed mass tolerances of comparable domestic and export models. The Millcon verification report does not establish that the Commission has adequately undertaken this level of inquiry. Rather, the Commission has accepted Millcon's explanations without further analysis or testing. As a consequence, the Commission's finding that the rolling tolerances for rebar sold domestically and for export do not highlight any "significant differences" in this regard is inadequate. It should be noted that the dumping margin determined for Millcon was 0.0 per cent. An unfavourable adjustment for rolling lighter on the domestic market versus for export would result in an upward adjustment of Millcon's normal value. An adjustment of a magnitude of 2 per cent would take Millcon into above negligible dumping margins.

The importance and magnitude of even minor adjustments for differences in mass tolerances between domestic and export sales of re-bar has not been adequately verified by the Commission.

The correct and preferable decisions for the Commission in respect of exports by Millcon from Thailand to Australia would involve:

(I) adequately verifying that the transfer price for billet from the related entity Burapa to Millcon was at full cost recover; and

(II) adjustment for mass tolerances on all Millcon domestic sales so that domestic and export sales of rebar are suitable for fair comparison purposes.

9. **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.**

As outlined above document OneSteel asserts that the correct or preferred decision of the Commission would have been:

(i) the conduct of verification visits with at least one exporter in both of Malaysia and Turkey (i.e. most likely Ann Joo and Habas) so that the information relied upon for determining dumping margins for other exporters could be adequately benchmarked, therefore, the Parliamentary Secretary cannot possibly form an opinion as to the accuracy and reliability of the exporter's information, and therefore should be disregarded under 269TAC(7) and 269TAB(4)) of the Customs Act (i.e. normal values and export prices are determined on the basis of accurate and reliable information); and

(ii) adequately verifying that the transfer price for billet from the related entity Burapa to Millcon was at full cost recover, and adjustment for mass tolerances on all Millcon domestic sales so that domestic and export sales of rebar are suitable for fair comparison purposes (so that Millcon's normal value can be accurately determined).