



Australian Government
Australian Customs Service

R E P O R T

CUSTOMS ACT 1901 - PART XVB

TRADE MEASURES CONSIDERATION REPORT NO.128

REVIEW OF ANTI-DUMPING MEASURES

CERTAIN WASHING MACHINES

REPUBLIC OF KOREA

21 August 2007

1 BACKGROUND

On 13 August 2007, Castel Electronics Pty Ltd (Castel) lodged an application under section 269ZA of the *Customs Act 1901*¹ (Act) requesting a review of anti-dumping measures applying to certain washing machines exported to Australia by Daewoo Electronics Co. Ltd (Daewoo) from the Republic of Korea (Korea). Castel is the newly appointed distributor for Daewoo products in Australia.

The anti-dumping measures that Castel seeks to have reviewed are interim dumping duties imposed on 18 September 2003. Exporter specific measures apply to the Korean washing machine exporters (Daewoo, Samsung Electronics Korea and LG Electronics Inc.). Separate measures apply to all other exporters. Trade Measures Report (TM) 63 refers.

The anti-dumping measures have been reviewed once since they were imposed, resulting in a change to the variable factors (export price, normal value and non-injurious price as ascertained). TM 86 refers. The notice declaring the Minister's decision to fix different variable factors as a result of the review was published on 13 July 2005. The investigation period for the review was 1 July 2003 to 30 June 2004.

Subsection 269ZA(2) of the Act states, inter alia, that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of a notice declaring the outcome of the last review of the anti-dumping notice. Over 12 months has elapsed since the publication of the 2005 review notice and therefore affected parties are entitled to apply for a review of the measures.

Pursuant to subsection 269ZC(1) you, as the delegate of the Chief Executive Officer of Customs (CEO), must examine the application and, within 20 days after the lodgement date, decide whether or not to reject the application. Your decision must be made no later than 2 September 2007.

Subsection 269ZC(2) specifies the matters which must be considered in making a decision whether to reject the application. These matters are whether:

- the application complies with section 269ZB; and
- there appear to be reasonable grounds for asserting either:
 - (i) that the variable factors relevant to the taking of anti-dumping measures have changed; or
 - (ii) that, if the anti-dumping measures to which the application relates had not been taken, the Minister would not be entitled to take such measures.

¹ Unless otherwise specified all references to legislative provisions are references to the *Customs Act 1901*.

If you are not satisfied, having regard to the application and to any other relevant information, of one or more matters referred to in subsection 269ZC(2), the application must be rejected.

To assist you in your decision, the above matters are examined in the following sections of the report.

2 COMPLIANCE WITH SUB-SECTION 269ZB(1)

2.1 APPROVED FORM

Subsection 269ZB(1) requires that the application be in writing, be in an approved form, contain such information as the form requires and be signed in the manner indicated by the form.

The applicant, Castel, has lodged an "Application for Review of Anti-Dumping Measures" in the approved form. The form has been signed.

Castel has provided all information required by the form including a non-confidential summary of the application. We consider that the non-confidential summary complies with the requirements of section 269ZJ.

As required by subsection 269ZB(2) the applicant has provided:

- a description of the kind of goods to which the measures the subject of the application relate; and
- a description of the measures the subject of the application.

The approved application form requires that the applicant provide a detailed statement setting out reasons for seeking review of the anti-dumping measures including, where the application concerns changed variable factors:

- a statement identifying the variable factors that have changed; and
- the amount by which each such factor has changed; and
- the information that establishes that amount.

Castel's application states that it would like to appeal against the imposition of anti-dumping duty assessed on its imports to date from Daewoo of 6.5 kilogram front loading washing machines. Castel asserts that the price it is contracted to pay Daewoo differs very little from the comparable price for a similar model in the Korean domestic market.

In support of its application Castel provided:

- a copy of an invoice showing the price payable by Castel to Daewoo;
- a calculation purporting to show the advertised and actual retailer selling prices for a 6.5 kilogram front loading washing machine in Korea, including statements of the retailer margin and costs incurred by Daewoo that Castel claims are not incurred in relation to sales to Australia; and
- a calculation of a selling price in Korea comparable to the selling price to Australia, arrived at by deducting from Daewoo's selling price in Korea, costs incurred in sales in Korea that are not incurred in sales to Australia.

We consider that Castel's application includes:

- a statement that the ascertained export prices (AEP) and ascertained normal values (ANV) have changed;
- a statement that the AEP and ANV for 6.5 kilogram front loading washing machines have changed by the difference between the price payable by Castel for washing machines purchased from Daewoo and the current relevant AEP (while Castel has focused on one particular model it is our understanding that the variable factors for washing machines of other specifications have also changed); and
- information that establishes the changed amount.

2.2 CONCLUSION

Based on our consideration of the evidence we are satisfied that the application complies with section 269ZB.

3 THE GOODS

3.1 GOODS THE SUBJECT OF CURRENT MEASURES

The goods covered by the measures are fully automatic household top and front loading washing machines (excluding twin-tub washing machines, combined washer/dryers and commercial washing machines whether or not operated by a form of payment), with a dry linen capacity not exceeding 12 kilograms.

The goods are classified to subheading 8450.11.00 statistical codes 40, 03 and 04 and subheading 8450.20.00 statistical code 08 of the *Customs Tariff Act 1995*. The goods are subject to a duty rate of 5 percent.

3.1.1 Imports

We have examined Customs commercial database for import declarations of washing machines exported by Daewoo to Australia in the period 1 July 2006 to 31 July 2007. Details of the exports are at **confidential appendix 1**.

4 REASONABLE GROUNDS

Subsection 269ZC(2) requires that there appear to be reasonable grounds for asserting either:

- that the variable factors relevant to the taking of anti-dumping measures have changed; or
- that, if the anti-dumping measures to which the application relates had not been taken, the Minister would not be entitled to take such measures.

Castel states that the variable factors have changed.

4.1 VARIABLE FACTORS

4.1.1 Export price

In its application, Castel provided a copy of a recent commercial invoice showing the price payable on 6.5 kilogram front loading washing machines purchased from Daewoo. Castel claims that its purchases from Daewoo are made at arms length and that the invoiced price is the final price. Castel states that it has no commercial interest in Daewoo and vice versa.

The information provided by Castel indicates that the current export price on 6.5 kilogram front loading washing machines exported by Daewoo is significantly different to the relevant AEP for the exported model. This suggests that similar differences may apply to other capacity front loading, and possibly top loading, machines covered by the measures.

4.1.2 Normal value

Castel claims that the comparable domestic selling price (or normal value) for the 6.5 kilogram front loading machine exported to Australia is similar to, or possibly lower than, the selling price to Australia.

Based on information provided to it by Daewoo, Castel has adjusted prices between Daewoo and two major retail customers to arrive at prices it claims are comparable to the price of sales to Australia. The adjustments relate to costs Daewoo is said to incur on sales in the domestic market but not in relation to sales to Australia. The adjusted domestic selling price is lower than the export price between Daewoo and Castel.

Castel provided a printout from the Korean language website of a Korean retailer that appears to show the advertised retail price of a Daewoo washing machine. The price, when converted from Korean won to US dollars, corresponds to the retail price in Castel's construction of the advertised retail selling price in Korea for that retailer.

The normal value, however, is dependent on Daewoo's selling prices in Korea and adjustments necessary to make a fair comparison with export price. Castel provided no evidence to support these amounts but in discussions with Customs advised that Daewoo would, if a review was commenced, make the necessary information available to Customs. Also, we note that there may be a need for adjustments for fair

comparison that were not included in Castel's calculations. For example, from previous investigations we are aware that washing machines sold in Korea are typically not identical to models exported to Australia and there may need to be specification adjustments to make prices comparable.

Accordingly, we are unable to form a view on the reliability of the normal value information provided by Castel.

4.1.3 Non-injurious price

Castel has not provided information on non-injurious prices. If initiated, the review would gather information to establish these prices.

4.1.4 Conclusion

Castel's assertions about the ANV's having changed are not supported by evidence. However, Castel provided evidence that the AEP has changed and we consider this is sufficient to initiate the review.

From the available evidence, we are satisfied that there appear to be reasonable grounds for asserting that the variable factors applying to certain washing machines exported to Australia by Daewoo have changed.

5 RECOMMENDATION

We recommend that:

- you decide to not reject the application for review;
- the review include an examine all of the variable factors; and
- Customs examine exports to Australia by Daewoo in the period 1 July 2006 to 30 June 2007 for the purposes of the review.

We are unaware of any justification to extend the review to the measures as they affect exporters from Korea generally and therefore propose that the review not be extended beyond the measures as they affect Daewoo.

Mick Kenna
Manager
Dumping Operations 1

Sangita Ravendran
Supervisor
Dumping Operations 1