PUBLIC FILE

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

FINAL REPORT

NO. 382

ACCELERATED REVIEW OF A DUMPING DUTY NOTICE APPLYING TO

CERTAIN HOLLOW STRUCTURAL SECTIONS

EXPORTED FROM THE KINGDOM OF THAILAND BY

THAI PREMIUM PIPE CO., LTD.

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CONTENTS

ABBREVIATIONS

ADN	Anti-Dumping Notice
the Act	*Customs Act 1901*
ADRP	Anti-Dumping Review Panel
ATM	Austube Mills Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make & sell
the Dumping Duty Act	*Customs Tariff (Anti-Dumping) Act 1975*
FOB	Free On Board
the goods	the goods the subject of the application (also referred to as the goods under consideration)
HSS	hollow structural sections
the investigation period	1 July 2013 to 30 June 2014
MPa	megapascals
NIP	non-injurious price
OCOT	ordinary course of trade
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the then Parliamentary Secretary	the then Assistant Minister for Industry and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	*Customs (International Obligations) Regulation 2015*
REP 254	*Anti-Dumping Commission Report No. 254*
the review period	1 October 2015 to 30 September 2016
SEF	Statement of Essential Facts
Thailand	Kingdom of Thailand
TPP	Thai Premium Pipe Co., Ltd. (also referred to as the applicant)
USP	unsuppressed selling price
WTO	World Trade Organization

1 SUMMARY AND RECOMMENDATIONS

This report has been prepared in response to an application under section 269ZE of the *Customs Act 1901* (the Act)[1] from Thai Premium Pipe Co., Ltd. (TPP, the applicant) seeking an accelerated review of the dumping duty notice applying to certain hollow structural sections (HSS) exported to Australia from the Kingdom of Thailand (Thailand), in so far as it affects TPP.

1.1 Recommendation

The Commissioner of the Anti-Dumping Commission (the Commissioner) recommends that the dumping duty notice the subject of the application be altered so as to apply to the applicant as if different variable factors had been fixed.[2]

If the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)[3] accepts this recommendation, to give effect to the decision, the Parliamentary Secretary must declare by notice published on the Anti-Dumping Commission's (the Commission) website that, with effect from the date the application is lodged, the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have effect as if the original dumping duty notice had applied to the applicant but the Parliamentary Secretary had fixed specified different variable factors relevant to the determination of duty.[4]

1.2 Application of law to facts

Under subsection 269ZE(1), a new exporter may apply for an accelerated review of a dumping duty notice in so far as it affects that exporter. A new exporter is defined by subsection 269T(1) as, in relation to goods the subject of an application for a dumping duty notice, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application.[5]

1.3 Findings and conclusions

Based on all relevant and available information, the Commissioner, in relation to the variable factors for TPP's exports of HSS to Australia, recommends that:

- the normal value be constructed by reference to TPP's cost of manufacture of the goods and, on the assumption that the goods, instead of being exported, had been sold for home consumption in Thailand during the review period, the administrative, selling and general costs associated with the sale and profit on that sale as per 269TAC(2)(c), with relevant adjustments;[6]

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[1] Unless otherwise specified all legislative references in this report are to the *Customs Act 1901*.

[2] Subsection 269ZG(1)(b).

[3] On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this decision the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

[4] Subsection 269ZG(3)(b).

[5] The investigation period in relation to the application was 1 July 2013 to 30 June 2014.

[6] Subsection 269TAC(9).

- as TPP is a new exporter which has not exported to Australia during the review period, sufficient information is not available to determine the export price based on historical sales, and therefore the ascertained export price be determined having regard to all relevant information, to be the same amount as TPP's ascertained normal value;[7] and
- the non-injurious price (NIP) be a price equal to TPP's ascertained normal value.

The Commissioner recommends that the duty payable in relation to TPP's exports of HSS be worked out using the floor price method.[8] If this recommendation is accepted, dumping duty will only be incurred in relation to TPP's exports of HSS where the actual export price is below the (confidential) ascertained normal value (which is equal to the ascertained export price).

[7] Subsection 269TAB(3).

[8] Subsections 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) and 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013.*

2 BACKGROUND

2.1 Existing measures

2.2.1 The original investigation

On 21 July 2014, the Commissioner initiated a dumping investigation into HSS exported to Australia from Thailand following an application lodged by Austube Mills Pty Ltd (ATM), a manufacturer of HSS in Australia.

In that investigation (Investigation 254), and as outlined in *Anti-Dumping Commission Report No. 254* (REP 254),[9] it was found that:

- the goods exported to Australia from Thailand were dumped, with margins ranging from 5.7 to 29.7 per cent;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

Particulars of the dumping margins established for each of the exporters, and the effective rates of duty determined as a result of that investigation, are set out in the following table:

Exporter / Manufacturer	Effective Rate of Duty	Duty Method
Sahathai Steel Pipe Public Company Limited	5.7%	*Ad valorem*
Pacific Pipe Public Company Limited	15.1%	*Ad valorem*
Samchai Steel Industries Public Company Limited	19.8%	*Ad valorem*
Uncooperative and all other exporters	29.7%	*Ad valorem*

Table 1 – dumping margins

The findings and recommendations in REP 254 were provided to the then Parliamentary Secretary to the Minister for Industry (the then Parliamentary Secretary), recommending the publication of a dumping duty notice in respect of the goods. Notice of the then Parliamentary Secretary's decision to accept the recommendations in REP 254 was published in *The Australian* newspaper and the *Commonwealth of Australia Gazette*.[10] Interested parties were also advised of this outcome in Anti-Dumping Notice (ADN) No. 2015/102 on 20 August 2015.[11]

For the purposes of this accelerated review, the current notice is the dumping duty notice published on 20 August 2015, as amended following a review of the Anti-Dumping Review Panel (ADRP).[12] This is the dumping duty notice for which TPP sought an accelerated review.

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[9] A copy of the report is available on the public record.

[10] A copy of the notice is available on the public record.

[11] A copy of the notice is available on the public record.

[12] A copy of the then Parliamentary Secretary's decision following the ADRP review is available on the ADRP website.

2.2 The current review

On 19 October 2016, TPP lodged an application for an accelerated review. The Commission examined the application and considered at that time:

- TPP was a new exporter;[13]
- the circumstances in which an accelerated review can be sought have been satisfied;[14]
- there were no grounds to reject the application[15] and the requirements of an application for accelerated review were satisfied.[16]

As the circumstances in which an accelerated review can be sought were satisfied, the Commissioner did not reject the application and commenced the accelerated review. The commencement of the accelerated review was publicly notified in ADN No. 2016/115, which was published on 31 October 2016. It also advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 27 January 2017.

The ADN is available on the Commission's website at www.adcommission.gov.au.

The Commission sought information for this accelerated review by requesting the applicant complete an exporter questionnaire. For the purposes of the accelerated review the period examined is 1 October 2015 to 30 September 2016 (referred to as the review period). This period has been used to ascertain the variable factors relevant to TPP.

13 As defined in subsection 269T(1).
14 In terms of subsection 269ZE(1).
15 In terms of subsection 269ZE(2).
16 In terms of subsection 269ZF(1).

2.3 The goods

On 16 November 2016, the Commission received a submission from ATM.[17] In its submission, ATM notes a discrepancy between the goods description in the ADN No. 2016/115 and the goods description in the original dumping investigation into HSS exported from Thailand in ADN 2014/59. The Commission reviewed both of the goods descriptions and agrees with ATM that the goods description in the ADN No. 2016/115 was missing the words "whether or not including alloys". The Commission also identified that the perimeter of the goods was wrong in the ADN No. 2016/115.

The correct goods subject to the anti-dumping measures and this accelerated review, as set out in ADN 2014/59, are:

> *Certain electric resistance welded pipe and tube made of steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes, whether or not including alloys. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include pre-galvanised, hot-dipped galvanised (HDG), and non-galvanised HSS.*
>
> *Sizes of the goods are, for circular products, those exceeding 21 mm up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 950.0 mm. CHS with other than plain ends (such as threaded, swaged and shouldered) are also included within the goods coverage.*

Excluded goods

The following categories of HSS are excluded from the application:

- *conveyor tube made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1mm on outer surface and 0.25mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6mm in order to maintain vibration free rotation and minimum wind noise during operation);*
- *precision RHS with a nominal thickness of less than 1.6 mm (i.e. not used in structural applications); and*
- *stainless steel CHS and RHS sections.*

2.4 Tariff classification

Following a review of the tariff classifications in ADN No. 2016/115 and the original investigation, the Commission notes that the goods are currently classified under the following tariff classifications and statistical codes:

- *7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);*
- *7306.50.00 (statistical code 45);*
- *7306.61.00 (statistical codes 21, 22, 25 and 90); and*

[17] Document No 003 in http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-382.aspx

- *7306.69.00 (statistical code 10).*

in Schedule 3 to the *Customs Tariff Act 1995*.

However, the Commission notes that these tariff classifications and statistical codes may include goods that are both subject and not subject to the notice. The listing of these tariff classifications and statistical codes is for convenience or reference only, and does not form part of the goods description. Please refer to the goods description in section 2.3 for authoritative detail regarding goods the subject of the notice.

The goods exported to Australia from Thailand under the Thailand Free Trade Agreement are free from Customs duty as of 1 January 2010.

3 ASSESSMENT OF VARIABLE FACTORS

3.1 Findings

On the basis of TPP's exporter questionnaire response and the Commission's verification of source documents provided by TPP, the Commissioner is satisfied that TPP is a manufacturer of like goods. The Commission is satisfied that the exporter questionnaire response was sufficient to enable the Commissioner to determine a normal value and export price for TPP.

3.2 Status as a manufacturer and verification of data submitted

TPP provided evidence of production volumes, sales data, contracts for sale, and details of cost to make and sell (CTMS) in its exporter questionnaire response. The Commission did not undertake an on-site verification of the information submitted by TPP. The Commission has various other means for testing the accuracy, relevance and completeness of data to a satisfactory level. A number of tests have been undertaken on TPP's data for the purpose of this accelerated review. Those tests include comparison of TPP's data to data verified in the original investigation and subsequent reviews, data from the Australian Border Force import database and verification of data to TPP's accounting system and source documents.

The Commission is satisfied that the exporter questionnaire is suitably complete and accurate for the purpose of establishing TPP's status as a manufacturer and determining the relevant variable factors. In particular, based on the information obtained and tests conducted by the Commission, the Commissioner is satisfied that:

- TPP is a manufacturer of HSS in Thailand;
- TPP's records are in accordance with the generally accepted accounting principles applicable in Thailand; and
- that TPP's costs incurred and the sales prices are materially similar to other manufacturers from Thailand.

3.3 Normal value

3.3.1 Circumstances of the production and sale of the goods

TPP did not export HSS to Australia during the review period. The Commission notes from TPP's exporter questionnaire response that TPP manufactures various unique models of HSS spanning 17 different standards of which five are international standards for sale on the domestic market.

The Commission understands that imported HSS is generally quoted to Australian standards AS/NZS1163 and AS/NZS1074.

TPP does not currently sell HSS manufactured to the Australian standards AS/NZS1163 or AS/NZS1074 in its domestic market.

3.3.2 Like goods and fair comparison to the goods to be exported to Australia

Subsection 269T(1) defines like goods as:

> *goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

In the Investigation No. 254, the Commission determined that all HSS (as defined by the goods description) produced and sold domestically by the exporters in Thailand, should be matched with the models exported to Australia based on the following attributes (in order of importance):

- Shape
  - CHS
  - RHS
- Standards' minimum yield strength requirements
  - AS1163 requires minimum 350 Megapascals (MPa)
  - AS1074 requires minimum 195 MPa
- Finish
  - black
  - lightly oiled
  - painted
  - galvanised
- Thickness range
- End finish
  - plain
  - threaded & coupled
  - threaded one end
  - threaded both ends
- Whether or not impact tested (for 6mm+ only)

The Commission received a submission from ATM in relation to the assessment of like goods and the fair comparison of the goods to be exported to Australia to like goods sold on the domestic market for the purposes of normal value calculation.

ATM submission

In its submission dated 16 November 2016,[18] ATM submitted that:

> *As there are no exports of the like goods during the investigation period there is no capacity for the Commission to formulate an Ascertained Export Price (AEP) in order to calculate interim dumping duties via the ad valorem form of measure. Austube Mills therefore requests the Commission to conduct a thorough and informed review of the Ascertained Normal Value (ANV) so that interim dumping duties may be calculated in accordance with the floor price method pursuant to subsection 5(4) of the Customs Tariff (Anti-Dumping) Regulation 2013.*

[18] Available on the public record.

In the same submission, ATM further submitted that:

> *Austube Mills anticipates that the Commission may find sufficient domestic sales of Australian Standard product upon which to base the normal value determinations (as was found with Saha Thai and Pacific Pipe in Case 254). If this is not the case then Austube Mills requests that the Commission conduct a transparent model matching process that allows Austube Mills and other Australian producers the opportunity to inform the Commission of any unfair comparison. Austube reminds the Commission that certain adjustments are required for "Mass tolerance difference" and "specification difference" between Thai Industrial Standard (or no standard commercial product) and Australian Standard product for export. The Mass tolerance difference should be the difference between the allowable mass tolerance of the applicable domestic Standard (which is Thai Industrial Standard TIS 107-2533) compared with Australian Standard (AS/NZS1163) – which is approximately 6%.*

ATM further stated that:

> *For specification adjustments the Commission should perform an analysis based on physical differences such as strength of feed material and chemical composition of feed material and that "the amount of the adjustment shall be based upon the market value of the difference".*

The Commission's assessment

As TPP did not have any sales of Australian standard products in its domestic market, the Commission has examined the domestic sales listing of TPP to determine which domestically sold products should form the base of TPP's normal value calculations. In doing this assessment, the Commission had regard to the model matching criteria set out in REP 254. The Commission notes that since there was a lack of Australian standard products (namely AS1163 and AS1074) sold by TPP in the Thai domestic market, and keeping in mind that there are no export sales to Australia by TPP within the review period, a model matching in relation to shape, finish and thickness is not possible. However, consistent with the same methodology that was established in the Investigation No. 254, the Commission considers that the most relevant criteria for model matching should be the minimum yield strength required by the international standards.

It is known that the minimum yield strength required by AS1163 is 350MPa. Therefore, the Commission assessed that the following domestically sold products by TPP during the review period are like goods to AS1163 standard products that TPP would sell to Australia.

Standard	Group/Grade	Min. Yield Strength
ASTM A500/A 500M	Grade C	315
STANDARD BS EN 10219-2006	S355 J0H	355
STANDARD BS EN 10219-2006	S355 J2H	355
JIS G 3444-2006	STK 500	355
JIS G 3444-2006	STK 540	390
JIS G 3445-1988	STKM 12 C	355
JIS G 3445-1988	STKM 13 C	380
JIS G 3445-1988	STKM 14 B	355
JIS G 3445-1988	STKM 16 A	325
JIS G 3445-1988	STKM 17 A	345
JIS G 3445-1988	STKM 18 B	315
JIS G 3445-1988	STKM 19 A	315
TIS 107-2533	HS 50	314
TIS 107-2533	HS 51	353

Table 2 – Like goods to AS1163 products

The minimum yield strength required by AS1074 is 195MPa. Hence, the Commission considers that the following domestically sold products by TPP during the review period are like goods to AS1074 standard products that TPP would sell to Australia.

Standard	Group/Grade	Min. Yield Strength
ASTM A500/A 500M	Grade A	230
ASTM A53/A53M	Grade A	205
ASTM A53/A53M	Grade B	240
BS 1387:1985	All Classes	195
BS EN 39:2001	All Classes	235
EN 10255:2004	All Classes	195
JIS G 3444-2006	STK 400	235
JIS G 3445-1988	STKM 12 B	275
JIS G 3445-1988	STKM 13 A	215
JIS G 3445-1988	STKM 14 A	245
JIS G 3454-1988	STPG 370	215
JIS G 3445-1988	STPG 410	245
TIS 107-2533	HS 41	235

Table 3 – Like goods to AS1074 products

3.3.3 Ordinary course of trade

The Commission considered whether TPP's domestic sales were in the ordinary course of trade (OCOT) having regard to section 269TAAD. The Commission conducted the OCOT test using TPP's domestic CTMS values as provided in the exporter questionnaire response and observed that all of TPP's domestic sales of products that are like to Australian AS1163 products (as tabulated above in Table 2) failed the OCOT test. From the verified data from Investigation 254 the Commission knows that AS1163 products constitute the majority of HSS exports from Thailand to Australia; the Commission is satisfied that, under Section 269TAC(2)(b), TPP's domestic sales of like goods are not sold in the OCOT.

The Commission's OCOT calculations are contained in **Confidential Appendix 1 - OCOT.**

TPP's domestic CTMS values are contained in **Confidential Appendix 2 - CTMS.**

3.3.4 Calculation of normal value

The Commission is satisfied that TPP's domestic sales of like goods are not sold in the OCOT. Further, as this accelerated review is relevant only to TPP, there is no evidence of contemporaneous domestic sales for other exporters which is available to the Commission. As a result the Commission is unable to calculate normal values under subsection 269TAC(1). The Commissioner therefore recommends to the Parliamentary Secretary that the normal value for TPP for the purposes of this accelerated review be calculated under subsection 269TAC(2)(c).

The Commission considers that TPP's normal value should be calculated by establishing the weighted average normal values of models that are like to AS1163 and AS1074 and sold in the review period in TPP's domestic market, but also weighted by the estimated ratio of AS1163 and AS1074 exports to Australia.

In the absence of export sales to Australia and domestic sales of like goods manufactured to the AS1163 or AS1074 standards in the review period by TPP, the Commission estimated the ratio of products in TPP's future exports that are complying AS1163 versus products complying AS1074 standard using the verified data of the Thai exporters in Investigation No. 254. The calculation of export product mix using Investigation No. 254 is at **Confidential Appendix 3 – Export Product Mix**. Using this calculation, the Commission estimates that 70 per cent of the exported products by TPP would comply to AS1163 standard while the remaining 30 per cent would comply with AS1074 standard.

The Commission included an amount for selling, general and administrative costs (SG&A) under subsection 44(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation), being the actual amount of SG&A costs recorded by TPP in its records on sales of the goods. The Commission also included an amount for profit; noting that there were no OCOT sales of the goods, this is an amount established under subsection 45(3)(a) of the Regulation, being the profit achieved by TPP on sales of the same general category of goods.

3.3.5 Adjustments to normal value

To ensure the normal value is comparable to the export price of goods exported to Australia at Free On Board (FOB) terms, the Commission has made necessary adjustments in accordance with subsection 269TAC(9).

Specification adjustment

Based on its understanding of HSS international standards, products and production processes from previous HSS investigations, the Commission considers that the physical and chemical characteristics of the products tabulated in Table 2 are similar to those of AS1163 products. In the same way, the Commission is also of the view that the physical and chemical characteristics of the products tabulated in Table 3 are similar to those of AS1074 products. For that reason, the Commission is satisfied that, in calculating a normal value for AS1163 and AS1074 products based on the CTMS figures of the products in Table 2 and Table 3 correspondingly, a "specification" adjustment to normal values is not required.

Weight tolerance adjustment

In its exporter questionnaire response (EQR), TPP provided a table comparing the theoretical weights of its certain products with their target or actual weights. The Commission calculated the weight tolerances of each group of products that are like to Australian standard products. To calculate the overall weight tolerance that TPP targets for the products that are like to Australian products, the Commission calculated the overall weighted average weight tolerance for these products. The Commission's calculation of weighted average weight tolerance applied to the like goods is at **Confidential Appendix – Weight Tolerance**. The Commission notes that TPP has not provided a target weight tolerance for the products that comply with AS1074 or AS1163. Therefore, in calculating the adjustment to normal value to address the differences between weight tolerances applied to Australian standard products and domestically sold like products, the Commission has taken the weight tolerance applied to Australian standard products as zero per cent. As a result, the Commission has adjusted the normal values for difference between the weighted average weight tolerance calculated for the like goods and TPP's target weight tolerance for Australian standard products which is deemed to be zero per cent.

Inland freight and packing adjustments

As TPP's domestic sales were made on a delivered basis, a downward adjustment was applied for domestic inland freight to arrive at an ex-works price.[19]

An upward adjustment was made to this ex-works price for export inland transportation, port handling, and export charges to arrive at a normal value at FOB delivery terms.[20] As TPP has not exported any products that are subject to this accelerated review in the review period, the Commission used the per unit export inland transport cost from a comparable verified Thai exporter in Investigation No. 254.

Similarly, an upward adjustment was made to TPP's ex-works price for export packing expenses. As TPP has not exported any products that are subject to this accelerated review in the review period, the Commission used the per unit export packing cost from a comparable verified Thai exporter in Investigation No. 254.

To assess the reasonableness of the calculations provided by TPP, the Commission benchmarked TPP's calculations against data provided by other manufacturers previously verified on-site by the Commission. The Commission found that the costs estimated by TPP are comparable to these other manufacturers.[21]

Normal value calculations are at **Confidential Appendix 4 – Normal Value**.

[19] Subsection 269TAC(9).

[20] Subsection 269TAC(9).

[21] The verification of other manufacturers' data occurred during Investigation 254.

3.4 Export price

TPP did not export the goods to Australia during the review period. As such, sufficient information is not available to enable the export price of the goods to be ascertained using:

- the price paid or payable by the importer, less transport or other charges arising after exportation of the goods;[22] or
- the price at which the goods were sold by the importer in Australia less prescribed deductions;[23] or
- the price having regard to all the circumstances of the exportation.[24]

Therefore, the Commissioner recommends that the export price, for the purposes of this accelerated review, be determined under subsection 269TAB(3) having regard to all relevant information.[25]

Specifically, the Commissioner considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the ascertained normal value for the purposes of this accelerated review. This price is at FOB terms.

3.5 Non-injurious price

No submissions were made for this accelerated review in relation to the NIP. The Commissioner has therefore had regard to the best available information to determine the NIP, which in this instance is the information and method employed in REP 254.

In REP 254, the Commissioner had made the assessment that the NIP can be determined by setting the unsuppressed selling price (USP) equal to ATM's CTMS during the investigation period of 254, plus ATM's profit rate for the first three quarters of 2008/09 financial year.

In calculation of the NIP for the purposes of this accelerated review, the Commission notes that ATM's CTMS figures for the review period is not available to calculate an USP. Therefore, the Commission recommends that the NIP be set as equal to TPP's normal value. As the NIP is set at the same price as the normal value, it is not less than the normal value and consequently, the Parliamentary Secretary is not required by subsection 8(5B) of the Dumping Duty Act to consider the lesser duty rule.

3.6 Form of measures

The public notice that was published on 12 August 2015 following the findings outlined in REP 254, established that interim dumping duty would be worked out using the *ad valorem* duty method. Under the *ad valorem* duty method, interim dumping duty is calculated as a percentage determined by reference to the difference between the ascertained export price and ascertained normal value.

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[22] Subsection 269TAB(1)(a).
[23] Subsection 269TAB(1)(b).
[24] Subsection 269TAB(1)(c).
[25] Subsection 269TAB(3).

In this report, the Commission recommends that the ascertained export price be set as being equal to the ascertained normal value.

As TPP has not exported like goods during the review period, the Commissioner recommends that TPP's interim dumping duty be calculated in accordance with subsection 8(5) of the Dumping Duty Act applying the floor price method set out in subsection 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.[26]

[26] Reference is made to the Commission's *Guidelines on the Application of Form of Dumping Duty*.

4 EFFECT OF THE ACCELERATED REVIEW

If the Parliamentary Secretary accepts the Commissioner's recommendation that the duty payable in relation to TPP's exports of HSS from Thailand be worked out using the floor price method, dumping duty will only be incurred in relation to TPP's exports of HSS where the actual export price is below the ascertained normal value (which is equal to the ascertained export price).

If the Parliamentary Secretary accepts the recommendations in this report, these changes will take effect retrospectively from 19 October 2016.

The Commission further notes that if the recommendations in this report are accepted by the Parliamentary Secretary, TPP will no longer be eligible to seek another accelerated review at a later date.

5 RECOMMENDATION

The Commissioner recommends that the Parliamentary Secretary considers this report, and if agreed, sign the attached notice (Non-confidential Attachment 1) and sign the attached schedules (Confidential Attachment 2) to DECLARE that:

- under subsection 269ZG(3)(b)(ii) of the Act, that, with effect from 19 October 2016, the Act and the Dumping Duty Act have effect as if the notices had applied to TPP as if different variable factors had been fixed in respect of this exporter, relevant to the determination of duty payable by the applicant.

The Commissioner recommends that the Parliamentary Secretary be SATISFIED that:

- in accordance with subsection 269TAB(3) of the Act, sufficient information is not available to enable export prices for HSS exported to Australia from Thailand by TPP to be ascertained under the preceding subsections of section 269TAB of the Act.

The Commissioner recommends that the Parliamentary Secretary DETERMINE that:

- in accordance with subsection 269TAB(3) of the Act, the export price for HSS exported to Australia from Thailand by TPP is an amount having regard to all relevant information;
- in accordance with subsection 269TAC(2)(c) the normal value of the goods exported to Australia from Thailand by TPP is the cost of production or manufacture of the goods in the country of export, as set out in **Confidential Appendix 4 – Normal Value**; and, on the assumption that HSS, instead of being exported, had been sold for home consumption in the ordinary course of trade in Thailand, the administrative, selling and general costs associated with the sale and the profit on that sale, as set out in **Confidential Appendix 2 - CTMS**; and
- pursuant to section 8(5) of the Dumping Duty Act, that the interim dumping duty payable on HSS exported to Australia by TPP is an amount that has been worked out in accordance with the floor price duty method pursuant to subsections 5(4) and (5) of the *Customs Tariff (Anti-Dumping) Regulation 2013* with effect from 19 October 2016.

APPENDICES AND ATTACHMENTS

Non-Confidential Attachment 1	Public Notice
Confidential Attachment 2	Schedule of Determinations
Confidential Appendix 1 - OCOT	Ordinary course of trade test
Confidential Appendix 2 - CTMS	TPP's domestic CTMS values
Confidential Appendix 3 – Export Product Mix	Estimation of TPP's export product mix using data from Investigation 254
Confidential Appendix 4 – Normal Values	Calculation of TPP's normal values