



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

REPORT NO. 472

**ACCELERATED REVIEW OF
A DUMPING DUTY NOTICE APPLYING TO
STEEL REINFORCING BAR
EXPORTED TO AUSTRALIA FROM
THE KINGDOM OF THAILAND BY
N.T.S. STEEL GROUP PUBLIC COMPANY LIMITED**

July 2018

CONTENTS

ABBREVIATIONS..... 3

1 SUMMARY AND RECOMMENDATIONS..... 4

1.1 INTRODUCTION 4

1.2 APPLICATION OF LAW TO FACTS 4

1.3 FINDINGS AND RECOMMENDATIONS..... 4

2 BACKGROUND 6

2.1 THE GOODS 6

2.2 THE ACCELERATED REVIEW PROCESS 6

2.3 EXISTING MEASURES..... 7

2.4 THE CURRENT REVIEW 7

2.5 RESPONSE TO THE EXPORTER QUESTIONNAIRE 9

2.6 EXPORTER QUESTIONNAIRE VERIFICATION 9

2.7 PUBLIC RECORD 9

3 ASSESSMENT OF VARIABLE FACTORS 10

3.1 FINDINGS 10

3.2 CIRCUMSTANCES OF NTS' PRODUCTION AND SALE OF LIKE GOODS 10

3.3 EXPORT PRICE..... 11

3.4 DOMESTIC SALES 11

3.5 ADJUSTMENTS TO NORMAL VALUE 11

3.6 NORMAL VALUE 14

3.7 NON-INJURIOUS PRICE 15

3.8 DUMPING MARGIN 15

4 FINDINGS AND PROPOSED RECOMMENDATIONS 16

4.1 PROPOSED RECOMMENDATIONS..... 16

4.2 PROPOSED FORM OF DUTY 16

5 APPENDICIES AND ATTACHMENTS 17

PUBLIC RECORD

ABBREVIATIONS

ACRS	Australasian Certification Authority for Reinforcing and Structural Steels Ltd
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the Assistant Minister	the Assistant Minister for Science, Jobs and Innovation
AS/NZS 4671:2001	Australian Standard <i>AS/NZS 4671:2001 Steel Reinforcing Materials</i>
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the goods	the goods the subject of the application, steel reinforcing bar
IDD	interim dumping duty
NIP	non-injurious price
NTS, the applicant	N.T.S. Steel Group Public Company Limited
REP 418	Anti-Dumping Commission Report No.418
REQ	response to the exporter questionnaire
the review period	1 January 2017 to 31 December 2017
SCSC	The Siam Construction Steel Co., Ltd
TIS 24-2548	Thai Standard <i>TIS 24-2548 Steel bars for reinforced concrete</i>

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This final report has been prepared in response to an application under section 269ZF of the *Customs Act 1901*¹ (the Act) from N.T.S. Steel Group Public Company Limited (NTS, the applicant) seeking an accelerated review of the dumping duty notice applying to steel reinforcing bar (rebar or the goods) exported to Australia from the Kingdom of Thailand (Thailand), in so far as it affects NTS.

This report sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) is basing his recommendations to the Assistant Minister for Science, Jobs and Innovation (Assistant Minister).²

1.2 Application of law to facts

Division 6 of Part XVB provides for eligible parties to apply for an accelerated review. This Division, among other matters:

- sets out the procedures to be followed and the matters to be considered by the Commissioner in conducting accelerated reviews for the purpose of making a report to the Assistant Minister; and
- empowers the Assistant Minister, after consideration of such reports, to leave the dumping duty notice unchanged, or to declare that the notice have effect with regard to the applicant as if different variable factors had been specified.

Subsection 269ZE(1) sets out that a new exporter may apply for an accelerated review. A new exporter is defined in subsection 269T(1) as an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application for the dumping duty notice.

1.3 Findings and recommendations

Based on all relevant and available information, the Commissioner, in relation to the variable factors in so far as NTS is affected, recommends that:

- the normal value be established by reference to domestic sales by NTS which were arms length transactions and in the ordinary course of trade during the review period (1 January 2017 to 31 December 2017), with relevant adjustments;³

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

² On 20 December 2017 the Prime Minister appointed the Parliamentary Secretary to the Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation. For the purposes of this decision the Minister is the Assistant Minister.

³ Subsections 269TAC(1) and (8).

PUBLIC RECORD

- as NTS did not export the goods to Australia during the review period, the export price be determined having regard to all relevant information, being equal to the normal value;⁴
- the non-injurious price (NIP) be equal to the normal value; and
- the amount of interim dumping duty (IDD) payable be calculated by reference to the floor price duty method.⁵

The Anti-Dumping Commission (the Commission) considers that, where it is found that an exporter has not dumped the goods as part of an accelerated review, the floor price duty method is the most appropriate form of duty. As a result, dumping duty will only be payable if NTS exports the goods at a price below the ascertained normal value.

⁴ Subsection 269TAB(3).

⁵ Subsections 5(4) and (5) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

2 BACKGROUND

2.1 The goods

2.1.2 Description

The goods the subject of the application (the goods) 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 regardless of the particular grade, alloy content or coating.

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

2.1.3 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*.

Tariff Subheading	Statistical Code
7213.10.00	42
7214.20.00	47
7227.90.10	69
7227.90.90	01, 02, 04
7227.90.90	42
7228.30.10	70
7228.30.90	40
7228.60.10	72

2.2 The accelerated review process

If a dumping duty notice or a countervailing duty notice has been published in respect of certain goods, a new exporter, as defined in subsection 269T(1), may request an accelerated review of those measures in so far as they affect that exporter.

If an application for an accelerated review of anti-dumping measures is received and not rejected, the Commissioner has up to 100 days after the application is lodged to conduct his review and complete a report for the Assistant Minister.⁶

Under subsection 269ZG(1), the Commissioner must, after considering the application and making such inquiries as the Commissioner thinks appropriate, recommend to the Assistant Minister that the notice the subject of the application:

- remain unaltered; or
- be altered so as to apply to the applicant as if different variable factors had been fixed.

Following the Assistant Minister's decision, a notice is published on the Commission website advising of the decision.

2.3 Existing measures

2.3.1 The original investigation

On 16 June 2017, an investigation into the alleged dumping of rebar exported to Australia from various countries including Thailand was initiated following an application lodged by OneSteel Manufacturing Pty Ltd, now trading under the business name Liberty OneSteel (referred to in this report as OneSteel). In that investigation, as outlined in *Anti-Dumping Commission Report No. 418* (REP 418), it was found that, in relation to Thailand:

- exports of the goods from Millcon PLC were at dumped prices, with a dumping margin of 9.3 per cent;
- for all other exporters, the goods were exported at dumped prices, with a dumping margin of 11.9 per cent;
- the dumped goods caused material injury to the Australian industry producing like goods (OneSteel); and
- continued dumping may cause further material injury to the Australian industry (OneSteel).

Accordingly, the Commissioner recommended that the Assistant Minister impose anti-dumping measures on the goods exported from Thailand. The recommendation was accepted and, on 7 March 2018, public notice of the decision was published on the Commission's website (Anti-Dumping Notice (ADN) No. 2018/10 refers).

2.4 The current review

On 29 March 2018, NTS, as a new exporter, lodged an application for an accelerated review of the dumping duty notice applying to the goods exported to Australia from Thailand in so far as the notice affects NTS.

⁶ Subsection 269ZG(2) refers.

2.4.1 New exporter status

Subsection 269ZE(1) outlines the circumstance in which a new exporter may seek an accelerated review.

A new exporter is defined in subsection 269T(1) as, in relation to the goods the subject of the application for a dumping notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application. Subsection 269T(1) also defines 'application' in relation to a dumping duty notice as meaning an application for the publication of such a notice.

To fall within the definition of a new exporter, the period within which the applicant must not have exported the goods to Australia is 1 April 2016 to 31 March 2017 (the investigation period for the original investigation).

In order to establish the applicant's status as a new exporter, the Commission assessed the data available to the original investigation and conducted a search of the Australian Border Force's import database. The Commission's examination did not reveal the applicant as being a supplier of the goods during the investigation period for the original investigation.

The Commission also sought to establish that the applicant was not related to an exporter whose exports were examined in relation to the application for publication of the notice.⁷

After an examination of publically available company information and the Australian Border Force import database, the Commission found no evidence that the applicant, under its current or any former names, was related to an exporter whose exports were examined during the original investigation period.

2.4.2 Commission assessment of application

The Commission examined the application and considered that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) were satisfied;
- the conditions for rejection under subsection 269ZE(2) were not satisfied;
- the application satisfied the requirements set out in subsection 269ZF(1); and
- the application was lodged in accordance with subsection 269ZF(2).

Accordingly, the Commissioner did not reject the application and commenced the accelerated review. The Commissioner's decision was publicly notified in ADN No. 2018/63, which was published on 18 April 2018 and provides further details in relation to the Commission's consideration of the application. ADN No. 2018/63 should be read in conjunction with this report and is available on the public record.

The review period for this accelerated review is 1 January 2017 to 31 December 2017 (review period).

⁷ Subsection 269ZE(2)(b) refers.

2.5 Response to the exporter questionnaire

Following receipt of the application, the Commission sent an exporter questionnaire to NTS for completion. NTS provided a response to the exporter questionnaire (REQ) within the requested timeframe. A non-confidential version of the REQ is available on the public record.⁸

The Commission reviewed the REQ and determined that it did not contain any deficiencies that would prevent the Commission from conducting a verification of the data contained in the response.

2.6 Exporter questionnaire verification

In June 2018 the Commission visited NTS at its parent company's head office in Bangkok and undertook a tour of its manufacturing facilities at Rayong, south of Bangkok. The majority of the verification was conducted at the parent company's head office on the basis that this is where the financial records relevant to the verification were located.

Details of this verification process are contained in the verification report which was published on the case public record.⁹

2.7 Public record

There is no legislative requirement for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring the process is conducted in an open and transparent manner, a public record for this accelerated review has been maintained and is accessible on the Commission website at www.adcommission.gov.au.

⁸ Case No.472 Public Record Item No.3

⁹ Case No.472 Public Record Item No.5

3 ASSESSMENT OF VARIABLE FACTORS

3.1 Findings

On the basis of NTS' REQ and the Commission's verification of information in the REQ, the Commissioner is satisfied that NTS is a manufacturer of like goods. The Commissioner is satisfied that the variable factors, insofar as they affect NTS, have changed.

3.2 Circumstances of NTS' production and sale of like goods

3.2.1 Status as a manufacturer

NTS provided evidence of its production volumes, sales data, and details of costs to make and sell in its REQ. Based on the information that NTS provided, the Commission is satisfied that NTS is a manufacturer of rebar.

3.2.2 Like goods

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.

Since NTS did not export the goods to Australia during the review period, there are no goods available to compare to the goods produced by NTS for sale on its domestic market in order to assess whether the goods it produces ought to properly be considered "like".

However, in readying itself for entry into the Australian rebar market NTS has obtained accreditation from the Australasian Certification Authority for Reinforcing and Structural Steels Ltd (ACRS) in relation to the rebar products it plans to export to Australia.

NTS has obtained ACRS accreditation in relation to straight rebar manufactured to *Australian Standard AS/NZS 4671:2001*. The scope of NTS' ACRS accreditation (**Non-confidential Attachment 1 refers**) covers rebar manufactured to comply with AS/NZS 4671 Grade 500N and Grade 500E for:

- rebar straights in diameters 20 mm, 24 mm, 28 mm and 32 mm; and
- rebar in coil of diameters 10 mm, 12 mm and 16 mm.

An examination of NTS' domestic rebar sales found that it sold straight rebar in the same or similar grade and diameter to the rebar covered by its ACRS accreditation.

In the Commission's view, the products sold on the domestic market either are identical or have characteristics that closely resemble the goods that NTS would likely export to Australia. Accordingly, the Commission is satisfied that the goods produced by NTS for sale on its domestic market are "like goods".

3.3 Export price

The Commission has found that NTS did not export the goods to Australia during the accelerated review period. As such, the export price of the goods cannot be determined under subsection 269TAB(1).

Specifically, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;¹⁰
- the price in Australia less prescribed deductions;¹¹ or
- the price having regard to all the circumstances of the exportation.¹²

Therefore, the Commission has determined an export price under subsection 269TAB(3) having regard to all relevant information.

The Commission considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value for the purposes of this accelerated review.

3.4 Domestic Sales

3.4.1 Domestic sale of like goods

Subsection 269TAC(1) provides that:

the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length by the exporter or, if the goods are not sold by the exporter, by other sellers of the like goods.

The Commission is satisfied that there is a sufficient volume of domestic sales of like goods that were arms length transactions and at prices that were in the ordinary course of trade. The Commission is therefore satisfied that the prices paid in respect of domestic sales of like goods are suitable for assessing the normal value under subsection 269TAC(1).

The Commission's assessment of domestic sales is provided at **Confidential Appendix 2**.

3.5 Adjustments to normal value

To ensure the normal value is comparable to the export price of goods which would be exported to Australia at free on board (FOB) terms, i.e. goods covered by NTS' ACRS accreditation, the Commission has found it necessary to make several adjustments in

¹⁰ Subsection 269TAB(1)(a).

¹¹ Subsection 269TAB(1)(b).

¹² Subsection 269TAB(1)(c).

accordance with subsection 269TAC(8). The findings in relation to adjustments have not deviated from the findings contained in the NTS verification report at chapter six.¹³ For the purpose of this report, the Commission re-states these findings below.

3.5.1 Downwards adjustment for domestic credit

The Commission considers that a downward adjustment to the normal value for domestic credit is necessary to ensure a fair comparison to FOB export prices. The Commission has applied the adjustment for domestic credit based on the number of credit days listed for each domestic transaction reported by NTS in its domestic sales listing which is provided as part of **Confidential Attachment 3**. The Commission rate for short term borrowings from financial institutions was identified in the NTS draft financial statements for the year ending 31 March 2018 at Note 16.

The Commission therefore considers it necessary to make a downwards adjustment to the normal value under subsection 269TAC(8) to account for the credit term difference between the like goods sold domestically and the goods exported to Australia.

3.5.2 Downwards adjustment for packing costs

The Commission established at verification that there is no difference in packaging costs between domestic sales of TIS 24-2548 grade SD50 and possible exports to Australia of AS/NZS 4671 grade 500N.¹⁴ As such, no adjustment for packing cost differences is necessary.

3.5.3 Downwards adjustment for inland transport

The Commission considers that a downward adjustment for domestic inland freight is required, to ensure a fair comparison to an FOB export price. The Commission has used the verified domestic inland freight expense identified in the domestic sales listing for NTS as the basis of the adjustment.

3.5.4 Upwards adjustments – export inland transport and handling

The Commission considers that an upward adjustment for export inland freight expenses is required, to ensure a fair comparison to an FOB export price.

As NTS had not exported to Australia in the review period, the Commission has had regard to NTS' third country exports as a measure of export inland freight. NTS reported that its only exports of like goods to third countries in the review period were by road transport and not by ship. As a result, it could not provide evidence of inland transport charges to a relevant port that were incurred in the review period. However, NTS provided evidence to support the cost of inland transport to the port near Rayong in relation to a shipment exported to a third country in early 2018. NTS further explained those logistics (rather than

¹³ Case No.472 Public Record Item No.6

¹⁴ Section 5.2.1, Case No.472 Public Record Item No.6

use the port closer to NTS) would be justified because of the ability to consolidate NTS shipments and SCSC shipments to Australia.

The Commission considered that the evidence provided by NTS in relation to its third country export inland freight was relevant and reliable for the purpose of estimating export inland freight for potential exports to Australia. The Commission calculated a weighted average cost per tonne for export inland freight and considers this amount should be included in calculating a normal value expressed at FOB delivery terms.

3.5.5 Upwards adjustments – Wharf handling charge and storage charges

The Commission considers that an upward adjustment for wharf handling charges and storage charges is required to ensure a fair comparison to an FOB export price.

NTS provided evidence of export wharf handling charges and export storage charges incurred in relation to exports (by ship) of like goods to third countries during the review period. The verification team has calculated weighted average costs (per tonne) for these expenses and considers these amounts should be included in calculating a normal value expressed at FOB delivery terms.

3.5.6 Differences in physical characteristics - specifications

NTS plan to export AS/NZS 4671 grade 500N rebar to Australia. NTS acknowledges that, when compared to the most similar like goods that are sold domestically in Thailand, TIS 24-2548 grade SD50, the different composition and quantity of alloys required for it to manufacture AS/NZS 4671 grade 500N will incur an additional cost of production per tonne. NTS confirmed that the different composition and quantity of alloys is required, in part, to achieve the lower carbon equivalent required of AS/NZS 4671 grade 500N.

The Commission considers it is reasonable to adjust for these differences in physical characteristics, and is of the view that a price difference can be estimated reasonably with reference to the difference in production costs. Further, in order for the adjustment calculation to reflect a market value of the differences, the Commission has added a gross margin to the production cost difference.

NTS provided evidence of the production cost differences between TIS 24-2548 grade SD50 and AS/NZS 4671 grade 500N, based on standard costs. In order to be satisfied that such differences reasonably reflect the likely actual cost differences, the Commission compared these cost details (including alloy purchase prices and usage rates) to the bill of materials for another product exported to a third country. This allowed the Commission to compare and contrast the different standard usage rates, and differences in standard costs generally, among various models. Having regard to the evidence of differences in standard costs, the Commission is satisfied that this evidence was sufficient for estimating a difference in actual costs between TIS 24-2548 grades SD50 and AS/NZS 4671 500N and therefore is a reasonable basis for an adjustment.

The Commission has also added an amount for gross profit that was based on the domestic sales of TIS 24-2548 grade SD50 in the review period. The resulting amount per tonne was used as the basis of an upwards adjustment in calculating a normal value for exports of AS/NZS 4671 grade 500N.

3.5.7 Difference in mass tolerances between standards

The Commission observed the mass tolerances between the Thai and Australian standards are marginally different. Further, NTS advised there is no difference in the rolling process it will adopt for good manufactured to the Thai and Australian standards. On this basis the Commission has not made an adjustment to account for differences in the mass tolerance between the Thai and Australian rebar standards.

3.5.8 Adjustment - conclusion

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices:

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit charges
Domestic inland freight	Deduct the cost of domestic inland freight
Export inland freight	Add the cost of export inland freight
Export wharf handling and storage	Add the cost of export wharf handling and storage
Differences in physical characteristics	Add the difference in price attributable to the different physical characteristics of the Australian AS/NZS 4671 500N grade and TIS 24-2548 grade SD50

The Commission's adjustment calculations are included in normal value calculations at **Confidential Appendix 3** and the Verification Work Program at **Confidential Attachment 2**.

3.6 Normal value

The Commission is satisfied that it found sufficient volumes of domestic sales of like goods that were arms length transactions at prices that were in the ordinary course of trade. The Commission is satisfied that these sales are suitable for assessing normal value under subsection 269TAC(1).

However, in the absence of any exported goods that could be relied on for determining which domestic models are relevant to the normal value calculation, the Commission considers having regard to NTS' ACRS accreditation is appropriate in this review for informing what type of rebar is likely to be exported to Australia.

The Commission has therefore calculated a weighted average normal value using relevant domestic sales by NTS, having regard to models that are identical, or have characteristics that closely resemble goods covered by NTS' ACRS accreditation.

The Commission further considers that adjustments (as outlined in Section 3.5) applied in accordance with subsection 269TAC(8), are necessary to ensure fair comparison of normal values with export prices.

NTS' normal value calculations are provided at **Confidential Appendix 3**.

3.7 Non-injurious price

Under subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), if the NIP is less than the normal value, the Assistant Minister must have regard to the desirability of specifying a method such that the sum of the export price and the IDD payable does not exceed the NIP (the “lesser duty rule”). Subsection 269TACA(a) identifies the NIP of the goods exported to Australia as the minimum price necessary to remove the injury caused by the dumping.¹⁵

In REP 418 (which examined the period of 1 April 2016 to 31 March 2017) the Commission found that the NIP was equal to the normal value for all exporters and therefore the lesser duty rule did not apply.

The Commission has reviewed the evidence available for this review and is satisfied that the methodology used to determine the NIP in REP 418 remains relevant.

Consistent with the approach adopted in REP 418, the Commission recommends that the NIP applicable to exports by NTS be set at the normal value determined for NTS.

3.8 Dumping margin

Since NTS did not export the goods the subject of the anti-dumping notice in the review period the Commission has not calculated a dumping margin for the purpose of this review.

¹⁵ The Commission notes that the period subject to examination in this accelerated review overlaps with the March 2017 quarter in the investigation period for the original investigation.

4 FINDINGS AND PROPOSED RECOMMENDATIONS

4.1 Proposed recommendations

The Commissioner recommends to the Assistant Minister that the dumping duty notice in respect of exports of the goods to Australia from Thailand have effect in relation to NTS as if different variable factors had been ascertained.

4.2 Proposed form of duty

The Commissioner recommends to the Assistant Minister that the IDD payable on the goods the subject of the dumping duty notice, in respect of NTS, is an amount which will be worked out in accordance with the floor price duty method pursuant to subsection 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. The Commission considers that, where it is found that an exporter has not exported the goods as part of an accelerated review, the floor price duty method is the most appropriate form of duty.

IDD will be payable on exports by NTS, if the actual export price is below the ascertained normal value, which is a specified (confidential) amount per tonne.

5 APPENDICIES AND ATTACHMENTS

Confidential Appendix 1	Cost to make and sell
Confidential Appendix 2	Domestic sales
Confidential Appendix 3	Normal value
Non-Confidential Attachment 1	NTS ACRS Accreditation
Confidential Attachment 2	Verification Work Program