



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XV B

FINAL REPORT NO. 481

ACCELERATED REVIEW

**OF THE DUMPING DUTY NOTICE APPLYING TO
CERTAIN STEEL REINFORCING BAR EXPORTED FROM
THE REPUBLIC OF INDONESIA**

BY

PT. TOYOGIRI IRON STEEL

7 September 2018

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ABBREVIATIONS

accelerated review period	1 April 2017 to 31 March 2018
the Act	the <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	PT. Toyogiri Iron Steel
the Minister	the Minister for Industry, Science and Technology
China	People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	cost to make
CTMS	cost to make and sell
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EXW	Ex Works
FOB	Free On Board
the goods	the goods the subject of the accelerated review (also referred to as the goods under consideration)
IDD	interim dumping duty
Indonesia	the Republic of Indonesia
Korea	the Republic of Korea
NIP	non-injurious price
the notice	the dumping duty notice
OCOT	ordinary course of trade
OneSteel	OneSteel Manufacturing Pty Ltd
SG&A	selling, general and administrative costs
Spain	the Kingdom of Spain
rebar	steel reinforcing bar
Thailand	the Kingdom of Thailand
Toyogiri	PT. Toyogiri Iron Steel
Turkey	the Republic of Turkey
USP	unsuppressed selling price

1 SUMMARY AND RECOMMENDATION

1.1 Background

This Accelerated Review No. 481 has been conducted in response to an application from PT. Toyogiri Iron Steel (Toyogiri or the applicant) seeking an accelerated review of the dumping duty notice (the notice) in respect of certain steel reinforcing bar (rebar or the goods) exported to Australia from the Republic of Indonesia (Indonesia) in so far as the notices affect Toyogiri.

Toyogiri did not export rebar to Australia during the period subject to the original investigation and is therefore a 'new exporter' as defined in subsection 269T(1) of the *Customs Act 1901* (the Act).¹

1.2 Application of law to facts

Division 6 of Part XVB of the Act enables eligible parties to apply for an accelerated review of anti-dumping measures. This Division, among other matters:

- sets out the procedures to be followed and the matters to be considered by the Commissioner of the Anti-Dumping Commission (the Commissioner) in conducting accelerated reviews for the purpose of making a report to the Minister for Industry, Science and Technology (the Minister); and
- empowers the Minister, after consideration of such report, to leave the dumping duty notice or countervailing duty notice unaltered or to alter them as appropriate.

1.3 Findings and conclusions

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

- the export price shall be determined under subsection 269TAB(3), having regard to all relevant information, being set equal to the normal value determined (Chapter 4 of this report refers); and
- the normal value shall be determined under subsection 269TAC(1).

1.4 Recommendation

Based on the above findings and conclusions, the Commissioner, pursuant to subsection 269ZG(1), recommends that the Minister alter the notices so as to apply to Toyogiri as if different variable factors had been fixed.

Further, the Commissioner recommends that the Minister determine that the interim dumping duty be worked out on Toyogiri's exports to Australia in accordance with the floor price duty method pursuant to subsection 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. If Toyogiri's actual export prices of rebar are less than the floor price (being set equal to the normal value), the interim dumping duty (IDD) payable will be the difference between the actual export price and the floor price.

If the Minister accepts these recommendations, to give effect to the decision, the Minister must by public notice, declare that:

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

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- the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) have effect as if the dumping duty notice had applied to Toyogiri but the Minister had fixed different variable factors relevant to the determination of the duty payable by Toyogiri; and determine that
- pursuant to subsection 8(5) of the Dumping Duty Act, the IDD payable on the goods exported to Australia from Indonesia by Toyogiri is an amount worked out in accordance with the floor price duty method as set out in subsection 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

If accepted by the Minister, the individual rates applicable to Toyogiri will take effect retrospectively from 30 May 2018 (the date the application was lodged).

2 BACKGROUND

2.1 The goods

2.1.1 Description

The goods that are the subject of the original notices and the subject of this 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 regardless of the particular grade, alloy content or coating.

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

2.1.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

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

Table 1: Tariff classifications of the goods

2.1.3 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.

The definition of like goods is relevant in the context of this accelerated review in determining the normal value of goods exported to Australia, the non-injurious price (NIP) and the goods subject to the dumping duty notice. The Anti-Dumping

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Commission's (the Commission) framework for assessing like goods is outlined in Chapter 2 of the Commission's *Dumping and Subsidies Manual*.²

2.2 Accelerated review process

If a dumping duty notice or a countervailing duty notice has been published in respect of certain goods, a new exporter may request an accelerated review of that notice as it affects that particular exporter.³ A new exporter is defined in subsection 269T(1) as an exporter who did not export the goods to Australia during the investigation period in relation to the original application for anti-dumping measures.

If an application for an accelerated review of a dumping duty notice or countervailing duty notice is received and not rejected, the Commissioner has up to 100 days after the application is lodged to inquire and report to the Minister on the accelerated review (subsection 269ZG(2)).

Under subsection 269ZG(1), the Commissioner must, after considering the application and making such inquiries as the Commissioner deems appropriate, recommend to the Minister that the dumping duty notice and/or countervailing duty notice:

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

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

2.3 Public record

There is no legislative requirement for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring this 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's website at www.adcommission.gov.au.

2.4 Existing measures

The matters most relevant to this accelerated review are summarised in Table 2.

Date	Summary
17 October 2014	The Commission initiated an investigation into the alleged dumping of rebar exported from the Republic of Korea (Korea), Malaysia, Singapore, the Kingdom of Spain (Spain), Taiwan, the Kingdom of Thailand (Thailand) and the Republic of Turkey (Turkey) following an application by OneSteel Manufacturing Pty Ltd (OneSteel).
1 July 2015	The Commission initiated an investigation into the alleged dumping of rebar exported from the People's Republic of China (China) following an application by OneSteel.
19 October 2015	The Commission terminated part of the investigation relating to rebar exported from Malaysia, Thailand, Turkey and Power Steel Co. Ltd from Taiwan.

² Available on the Commission's website at www.adcommission.gov.au.

³ Subsection 269ZE(1).

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Date	Summary
	<i>Termination Report No. 264</i> (TER 264) and ADN No. 2015/122 refer.
19 November 2015	The Commission published a dumping duty notice applying to rebar exported from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey. <i>Report No. 264</i> (REP 264) and ADN No. 2015/133 refer.
23 December 2015	The Commission initiated an investigation into the alleged subsidisation of rebar exported from China following an application by OneSteel.
12 April 2016	The Commission published a dumping duty notice applying to rebar exported from China. Report No. 300 (REP 300) and ADN No. 2016/39 refer.
19 September 2016	The Commission terminated part of the investigation relating to rebar exported from Jiangsu Yonggang Group Ltd and Shandong Shiheng Special Steel Group Co., Ltd. from China. <i>Termination Report No. 322</i> (TER 322) and ADN No. 2016/94 refer.
18 October 2016	The Commission published a dumping duty notice applying to rebar exported from China in which countervailing duties were not imposed. Report No. 322 (REP 322) and ADN No. 2016/95 refer.
13 April 2017	The Commission published the outcome of a review of anti-dumping measures as they apply to rebar exported from Compañía Española de Laminación, S.L. The anti-dumping measures were altered as if different variable factors had been ascertained, resulting in an ad valorem duty of 4.5 per cent. Report No. 380 (REP 380) and ADN No. 2017/33 refer.
27 June 2017	The Commission initiated an investigation into the alleged dumping of rebar exported from Greece, Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and Thailand following an application by OneSteel.
22 January 2018	The Commission terminated part of the investigation relating to rebar exported from PT. Ispat Panca Putera and PT. Putra Baja Deli from Indonesia. <i>Termination Report No. 418</i> (TER 418) and ADN No. 2018/08 refer.
6 March 2018	The Commission published a dumping duty notice applying to rebar exported from Greece, Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and Thailand. <i>Report No. 418</i> (REP 418) and ADN No. 2018/10 refer.
3 April 2018	The Commission initiated a review of anti-dumping measures as they apply to rebar exported from China.
19 April 2018	The Commission published the outcome of a review of anti-dumping measures as they apply to rebar exported from China by Jiangsu Shagang Group Co., Ltd., Hunan Valin Xiangtan Iron & Steel Co., Ltd. and Jiangsu Yonggang Group Co., Ltd. The anti-dumping measures were altered as if different variable factors had been specified, resulting in a fixed rate of IDD and a variable amount of IDD where the actual export price is below the ascertained export price for rebar exported by Jiangsu Shagang Group Co., Ltd., Hunan Valin Xiangtan Iron & Steel Co., Ltd. and Jiangsu Yonggang Group Co., Ltd. Report No. 411, 412 and 423 (REP 411/412/423) and ADN No. 2018/49 refer.
1 August 2018	The Commission initiated a review of anti-dumping measures as they apply to rebar exported from Korea and Taiwan (with the exception of Power Steel Co. Ltd).
2 August 2018	The Commission published the outcome of an accelerated review of anti-dumping measures as they apply to rebar exported from Thailand by Siam Construction Steel Co., Ltd. The anti-dumping measures were altered as if the original dumping duty notice had applied to the applicant but different variable

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	factors had been specified, resulting in a fixed IDD of zero per cent and a variable amount of duty where the actual export price is below the ascertained export price for rebar exported by the Siam Construction Steel Co., Ltd. Report No. 471 (REP 471) and ADN No. 2018/108 refer.
2 August 2018	The Commission published the outcome of an accelerated review of anti-dumping measures as they apply to rebar exported from Thailand by N.T.S. Steel Group Public Company Limited. The anti-dumping measures were altered as if the original dumping duty notice had applied to the applicant but different variable factors had been specified, resulting in a fixed IDD of zero per cent and a variable amount of duty where the actual export price is below the ascertained export price for rebar exported by N.T.S. Steel Group Public Company Limited. Report No. 472 (REP 472) and ADN No. 2018/109 refer.

Table 2: History of anti-dumping measures

Further details of the measures in place on exports from Indonesia are available in the *Dumping Commodity Register* on the public record.⁴

2.5 Notification and participation

On 30 May 2018, Toyogiri lodged an application for an accelerated review of the notice applying to rebar exported to Australia from Indonesia in so far as the notice affects Toyogiri.

The Commissioner considered the application to determine if it was made in accordance with sections 269ZE and 269ZF. The Commissioner was satisfied 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; and
- the application satisfied the requirements of subsection 269ZF(1).

Accordingly, the Commissioner did not reject the application. The commencement of this accelerated review was notified in ADN No. 2018/100, which was published on 19 June 2018 and made available on the Commission's website at www.adcommission.gov.au.

ADN No. 2018/100 advised that the Commissioner's recommendation will be made in a report on or before **7 September 2018**.

For the purposes of the accelerated review, the period examined is **1 April 2017 to 31 March 2018** (the accelerated review period).

⁴ Available on the Commission's website at www.adcommission.gov.au.

2.6 Exporter questionnaire response

2.6.1 Toyogiri's exporter questionnaire response

The Commission sent an exporter questionnaire to Toyogiri and received a completed response from Toyogiri within the specified timeframe. A non-confidential version of the exporter questionnaire response is available on the public record.⁵

Toyogiri has co-operated with the accelerated review and has provided comprehensive financial data in its exporter questionnaire response within the required timeframe.

A number of tests have been undertaken on Toyogiri's data for the purpose of this accelerated review. Those tests include comparison of Toyogiri's data to:

- information and data compiled and verified as part of Investigation 418; and
- market prices of rebar in Southeast Asia over the original investigation period and the accelerated review period.

Additionally, the Commission sought clarification and further responses from Toyogiri on a range of matters throughout the conduct of this review, including:

- delivery and handling expenses associated with its domestic sales;
- the nature of its delivery terms;
- the methodology in determining the actual and theoretical weight of rebar sold; and
- the apportionment of domestic production costs across its grades.

Toyogiri co-operated and provided responses to the queries within the designated timeframes. The Commission is satisfied as to the accuracy, relevance and completeness of the data supplied by Toyogiri upon which the findings of this accelerated review are based.

⁵Document No. 3 on the public record refers.

3 EXPORT PRICE

3.1 Findings

The Commission has found that Toyogiri 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;⁶
- the price in Australia less prescribed deductions;⁷ or
- the price having regard to all the circumstances of the exportation.⁸

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

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

⁶ Subsection 269TAB(1)(a).

⁷ Subsection 269TAB(1)(b).

⁸ Subsection 269TAB(1)(c).

4 NORMAL VALUE

4.1 Findings

The normal value has been established in accordance with subsection 269TAC(1). Under subsection 269TAC(1), 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 (OCOT) for home consumption in the country of export in sales that are arm's length transactions.

For the purposes of benchmark verification, the verification team has included all grades of like goods sold on the domestic market.

4.2 Adjustments

In accordance with subsection 269TAC(8), the Commission considers that a downwards adjustment to the normal value for domestic inland freight costs and an upwards adjustment to the normal value for export inland freight costs are necessary to ensure a fair comparison to the FOB export price, noting that in this accelerated review the export price is equal to the normal value.

The Commission has applied the downwards adjustment based on the actual domestic inland freight expenses, and the upwards adjustment based on the weighted average export inland transport expenses of verified exporters from Investigation 418.

4.3 Submissions

On 18 July 2018, OneSteel⁹ made a submission in respect of the accelerated review and put forth the following matters for consideration in the derivation of Toyogiri's normal value and export price:

- that Toyogiri's response to Section E-2.6 suggests that Toyogiri does in fact export like goods to third countries, yet no part of Section F had been completed. The Commission clarified this ambiguity with Toyogiri and confirmed that it had not exported to Australia or any third countries.
- that Toyogiri's responses to Sections G-4 and G-6 of the exporter questionnaire appear incomplete, and that such information was critical in undertaking a proper assessment of the normal value. The Commission confirmed that this information was provided on a commercial in confidence basis.

OneSteel's submission is available on the public record.¹⁰

⁹ On 1 September 2017, GFG Alliance acquired the former Arrium businesses, including OneSteel Manufacturing Pty Ltd. OneSteel Manufacturing Pty Ltd is now trading as Liberty OneSteel, a division of the Liberty Steel Group.

¹⁰ Document No. 4 on the public record refers.

5 NON-INJURIOUS PRICE

5.1 Findings

The Commissioner considers that in this instance determining the NIP based on Australian industry's selling prices in a period unaffected by dumping is not appropriate. The Commission's findings in Investigations 264, 300 and 418 that the market was affected by dumping remains valid for the purpose of this accelerated review.¹¹

The Commissioner recommends that the non-injurious price (NIP) be determined by setting it equal to the exporter's normal value.

¹¹ Document 68 on the public record (EPR 418) refers.

6 FORM OF MEASURES

6.1 Proposed form of duty

The Commissioner recommends to the Minister that the IDD payable on the goods the subject of the notice 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 Commissioner considers that in circumstances where a new exporter has not exported the goods to Australia, the floor price duty method is the most suitable form of duty.

IDD will be payable if the actual export price is below the floor price (set as equal to the ascertained normal value), which is a specified (confidential) amount per kilogram.

7 EFFECT OF THE ACCELERATED REVIEW

If the Minister accepts the recommendations in this report, in respect of rebar exported by Toyogiri to Australia from Indonesia:

- the notice will be altered so as to apply to Toyogiri as if different variable factors had been fixed; and
- the floor price interim dumping duty will be set, where interim dumping duty will be payable only when the actual export price is below the floor price.

If the Minister accepts the recommendations in this report, these changes will take effect retrospectively from 30 May 2018 (being the date the application was lodged). The Commission notes that if the recommendations in this report are accepted by the Minister, Toyogiri will not be eligible to seek another accelerated review.

A summary of the ascertained variable factors is provided at **Confidential Appendix 4**.

8 RECOMMENDATIONS

The Commissioner has found that in relation to rebar exported to Australia from Indonesia by Toyogiri:

- the ascertained export price should be altered; and
- the ascertained normal value should be altered.

The Commissioner recommends that the Minister consider this report, and if agreed, issue a public notice to declare that:

- under subsection 269ZG(3)(b), that, with effect from 30 May 2018, the Act and the Dumping Duty Act have effect as if the notice had applied to Toyogiri but different variable factors had been fixed in respect of Toyogiri, relevant to the determination of duty;

and to determine that:

- pursuant to subsection 8(5) of the Dumping Duty Act, that the IDD on the goods exported to Australia from Indonesia by Toyogiri is an amount worked out in accordance with the floor price duty method as set out in subsection 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*, with effect from 30 May 2018.

The Commissioner recommends that the Minister be satisfied that:

- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in Indonesia in sales that are arms length transactions by Toyogiri, the normal values for exported models of rebar for Toyogiri are as set out in **Confidential Appendix 3**; and
- in accordance with subsection 269TAB(3), sufficient information is not available to enable export prices for the goods exported to Australia from Indonesia by Toyogiri, the subject of this accelerated review, to be ascertained under the preceding subsections of section 269TAB.

The Commissioner recommends that the Minister determine:

- in accordance with subsection 269TAC(1), the normal value for the goods exported to Australia from Indonesia by Toyogiri is the amount as set out in **Confidential Appendix 3**, which has been determined based on the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are arm's length transactions; and
- in accordance with subsection 269TAB(3), the export price for the goods exported to Australia from Indonesia by Toyogiri is the amount as set out in **Confidential Appendix 3**, which has been determined having regard to all relevant information, being set equal to the normal value determined.

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9 APPENDICES

Confidential Appendix 1	Cost to Make and Sell
Confidential Appendix 2	Domestic Sales, OCOT and Profit
Confidential Appendix 3	Normal Value
Confidential Appendix 4	Summary of Variable Factors
Confidential Appendix 5	Benchmarking Analysis Report