



CUSTOMS ACT 1901 - PART XVB

**REPORT
NO. 532**

**INQUIRY INTO THE CONTINUATION OF
THE ANTI-DUMPING MEASURES APPLYING TO**

**HOLLOW STRUCTURAL SECTIONS
EXPORTED TO AUSTRALIA FROM
THE KINGDOM OF THAILAND**

6 July 2020

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ABBREVIATIONS

\$	Australian dollars
ABF	Australian Border Force
ADN	Anti-Dumping Notice
APT	Australian Pipe & Tube Pty Ltd
ATM	Austube Mills Pty Ltd
China	the People's Republic of China
CHS	circular hollow sections
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
DCR	<i>Dumping Commodity Register</i>
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
EXW	Ex Works
FAS	Free Alongside Ship
FOB	Free On Board
forex	foreign exchange
FY	financial year
GAAP	generally accepted accounting principles
GDP	gross domestic product
the goods	the goods the subject of the application (also referred to as the goods under consideration)
GOT	Government of Thailand
GP Marketing	GP Marketing International Pty Ltd
HRC	hot rolled coil
HS	Harmonised System
HSS	hollow structural sections
InfraBuild	InfraBuild Australia Pty Ltd
inquiry period	1 October 2018 to 30 September 2019
Korea	Republic of Korea
Macsteel	Macsteel International Australia Pty Ltd
the Manual	the <i>Dumping and Subsidy Manual</i>

PUBLIC RECORD

MCC	model control code
the Minister	the Minister for Industry, Science and Technology
NIP	non-injurious price
OCOT	ordinary course of trade
Orrcon	Orrcon Manufacturing Pty Ltd
Pacific Pipe	Pacific Pipe Public Co., Ltd.
PMI	<i>Performance of Manufacturing Index</i>
REP 177	<i>International Trade Remedies Branch Report No. 177</i>
REP 254	<i>Anti-Dumping Commission Report No. 254</i>
REP 419	<i>Anti-Dumping Commission Report No. 419</i>
REP 445	<i>Anti-Dumping Commission Report No. 445</i>
REQ	response to the exporter questionnaire
RHS	rectangular or square hollow sections
RIQ	response to the importer questionnaire
Saha Thai	Saha Thai Steel Pipe Public Company Limited
SEAISI	Southeast Asian Iron and Steel Institute
section 232 trade remedies	the import tariffs imposed on aluminium and steel under section 232 of the <i>Trade Expansion Act of 1962</i> (USA) in 2018
SEF	statement of essential facts
SEF 532	<i>Statement of Essential Facts No. 532</i>
SG&A	selling, general and administrative
TCO	Tariff Concession Orders
Thailand	the Kingdom of Thailand
TPP	Thai Premium Pipe Co., Ltd.
USA	United States of America
USP	unsuppressed selling price
YE	year ending

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report has been prepared in response to applications by Austube Mills Pty Ltd (ATM) and Orrcon Manufacturing Pty Ltd (Orrcon) seeking the continuation of the anti-dumping measures (in the form of a dumping duty notice) in respect of certain hollow structural sections (HSS, or the goods) exported to Australia from the Kingdom of Thailand (Thailand). The anti-dumping measures currently applicable to exports of HSS to Australia from Thailand are due to expire on 19 August 2020.

This report sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) has based his recommendations to the Minister for Industry, Science and Technology (the Minister), including any submissions received in response to the *Statement of Essential Facts No. 532* (SEF 532) published on 20 May 2020.¹

1.2 Legislative framework

Division 6A of Part XVB of the *Customs Act 1901*² sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the continuation of anti-dumping measures.

Section 269ZHE(1) requires that the Commissioner publish a statement of essential facts (SEF) on which he proposes to base his recommendations to the Minister concerning the continuation of the measures. Section 269ZHE(2) requires that in doing so, the Commissioner must have regard to the application and any submissions received within 37 days of the initiation of the inquiry, and may have regard to any other matters that he considers relevant.

Section 269ZHF(1) requires that the Commissioner must, after conducting his inquiry, give the Minister a report which recommends that the relevant notice:

- remain unaltered;
- cease to apply to a particular exporter or to a particular kind of goods;
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained; or
- expire on the specified expiry day.

Pursuant to section 269ZHF(2), the Commission must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures, unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

¹ Electronic Public Record (EPR) 532, [document no. 24](#) refers.

² All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

1.3 Summary of findings

The measures were imposed as a result of the publication of a dumping duty notice, referred to in Anti-Dumping Notice (ADN) No. 2015/102 on 19 August 2015.³ The measures are due to expire on 19 August 2020.

The present inquiry was initiated on 15 November 2019, following the Commissioner's consideration of applications lodged by ATM and Orrcon seeking the continuation of the anti-dumping measures.⁴ The Commissioner established an inquiry period of 1 October 2018 to 30 September 2019 (inquiry period).

1.3.1 The goods, like goods and the Australian industry (Chapter 3)

Locally produced HSS is 'like' to the goods the subject of the application. At least one substantial process in the manufacture of HSS is carried out in Australia and therefore there is an Australian industry producing like goods. The Australian industry comprises at least ATM and Orrcon.

1.3.2 Australian market (Chapter 4)

The Australian HSS market is supplied by the Australian industry, by imports from Thailand, and by imports from other countries (some of which are also subject to anti-dumping measures).

1.3.3 Economic condition of the Australian industry (Chapter 5)

The Commissioner assessed the economic condition of the Australian industry from 1 October 2013 for the purposes of analysing trends in the market for HSS and assessing potential injury factors.

1.3.4 Variable factors (Chapter 6)

As noted in the initiation notice for this inquiry, on 25 October 2019 the Commissioner also initiated a review of the anti-dumping measures applying to HSS exported from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia, Taiwan and Thailand.⁵

For the purposes of this continuation inquiry, variable factors have been assessed to determine whether dumping has occurred during the inquiry period, and whether dumping is likely to continue or recur if the anti-dumping measures are not continued.

The Anti-Dumping Commission (Commission) has calculated the dumping margins set out in Table 1.

³ EPR 254 for case 254 ([document no. 53](#) refers), available on the Anti-Dumping Commission's [website](#). The dumping duty notice was published in *The Australian* on 19 August 2015 (EPR 254, [document no. 54](#) refers).

⁴ EPR 532, ADN No. 2019/141 ([document no. 3](#)) refers.

⁵ EPR 529, ADN No. 2019/132 ([document no. 3](#)) refers.

PUBLIC RECORD

Exporter	Dumping Margin
Pacific Pipe Public Co., Ltd	Negative 4.3%
Saha Thai Steel Pipe Public Company Limited	Negative 13.1%
Thai Premium Pipe Co., Ltd	Negative 4.5%
Uncooperative and all other exporters	Negative 4.3%

Table 1: Dumping margins

1.3.5 Likelihood of dumping and material injury continuing or recurring (Chapter 7)

The Commissioner's finding is that, due to the negative dumping margins, prevailing economic conditions in Thailand and relative price competition in the Australian market, he is not satisfied that future exports of HSS from Thailand are likely to be at dumped prices.

Due to the apparent low level of influence of HSS exported from Thailand in the Australian market and its negligible impact on the Australian industry, the Commissioner is not satisfied that it is likely that the expiry of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, of the injury that the anti-dumping measure is intended to prevent.

1.4 Proposed recommendation

The Commissioner recommends to the Minister that the anti-dumping measures applying to HSS exported from Thailand expire on the specified expiry day, being 19 August 2020 pursuant to section 269ZHE(1)(a)(iv). If accepted, the effect of this recommendation is that HSS exported from Thailand and entered for home consumption in the Australian market on and after 20 August 2020 will not be subject to the dumping measures.

2 BACKGROUND

2.1 Initiation

On 29 October 2019 and 30 October 2019, Orrcon and ATM, respectively, each lodged an application under section 269ZHC seeking the continuation of the anti-dumping measures in respect of HSS exported to Australia from Thailand.⁶

As set out in ADN No. 2019/141, the Commissioner was satisfied that the applications complied with section 269ZHC and, in accordance with section 269ZHD(2)(b), there appeared to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

The Commissioner therefore decided not to reject the application and initiated the present inquiry on 15 November 2019.

2.2 Current anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 19 August 2015 by the relevant Minister following consideration of *Anti-Dumping Commission Report No. 254* (REP 254). All exporters of HSS from Thailand are subject to the dumping duty notice.

The Commission has conducted numerous cases relating to HSS. A list of the major relevant cases is set out in Table 2 and further details can be found on the Commission website.

Case type and No.	ADN No.	Date of decision	Country of export	Outcome
Investigation - 254	2015/102	19/8/2015	Thailand	Imposition of measures
Review - 445	2018/88	27/6/2018	Thailand	Changes to the variable factors
Review - 529	Ongoing	Ongoing	China, Korea, Malaysia, Taiwan and Thailand	Ongoing

Table 2: Major cases involving HSS from Thailand

Table 3 summarises the anti-dumping measures currently applying to exports of the goods to Australia from Thailand. These measures were the result of the most recent review of measures, the subject of *Anti-Dumping Commission Report No. 445* (REP 445).

Exporter	Form of measure	Fixed component of interim dumping duty
Atlantic Pipe Company Limited	floor price	0%
Pacific Pipe Public Co., Ltd	<i>ad valorem</i>	5.6%
Saha Thai Steel Pipe Public Company Limited	floor price	0%
Thai Premium Pipe Co., Ltd	<i>ad valorem</i>	0.7%
Uncooperative and all other exporters	<i>ad valorem</i>	8.7%

Table 3: Australian anti-dumping measures applying to HSS from Thailand

⁶ EPR 532, [document nos. 1](#) and [2](#) refer, respectively.

Anti-dumping measures also apply to HSS exported from China (in the form of dumping duty and countervailing duty notices) and Korea, Malaysia and Taiwan (in the form of a dumping duty notice).⁷

As a result of *Ministerial Exemption Instrument No 1* of 2016⁸ certain HSS is exempt from the anti-dumping measures due to a Tariff Concession Order⁹ granted in respect of:

Tubes, square or rectangular, electric resistance welded, complying with Australian / New Zealand Standard 1163:2009, Grade C350L0 or C450L0, with a perimeter not less than 1050 mm and having either:

- silicon content plus 2.5 times the phosphorus content NOT greater than 0.09%;
- silicon content greater than 0.14% and NOT greater than 0.24%.

Further detail concerning these measures and the exemption from the measures can be found on the *Dumping Commodity Register* (DCR) on the Commission website.¹⁰

2.3 Conduct of the inquiry

2.3.1 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an inquiry, or such longer period as is allowed under section 269ZHI(3), place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister in relation to the applications.¹¹

The SEF was originally due to be placed on the EPR by 4 March 2020. However, as advised in ADN Nos. 2020/24 and 2020/48, the Commissioner approved two extensions of time for the publication of the SEF.¹² The SEF was placed on the public record on **20 May 2020**.

2.3.2 Final report

As a result of the extensions of time granted by the Commissioner, his final report and recommendations in relation to this inquiry must be provided to the Minister on or before **4 July 2020**.¹³

2.3.3 Australian industry

The Commissioner is satisfied that the applicants, Orrcon and ATM, are both members of the Australian industry producing like goods to the goods the subject of the inquiry.¹⁴

⁷ Measures on these countries were first imposed following *International Trade Remedies Branch Report No. 177*, and were continued for a further five years following *Anti-Dumping Commission Report No. 379*. The EPR for these cases is available on the Commission's [website](#).

⁸ [ADN No. 2016/116](#) refers, following exemption inquiry EX0044.

⁹ Available on the Australian Border Force [website](#).

¹⁰ The DCR with respect to China, Korea, Malaysia and Taiwan is available [here](#); the DCR with respect to Thailand is available [here](#).

¹¹ Section 269ZHE(1); On 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to ADN No. 2017/10 for further information.

¹² EPR 532, [document nos. 9](#) and [19](#) refers.

¹³ As this is a Saturday, the due date becomes the next working day, which is 6 July 2020.

¹⁴ Chapter 4 of this report refers.

The Commission conducted verification visits to both ATM's and Orrcon's premises in January and February 2020, respectively. The verification reports are available on the EPR.¹⁵

2.3.4 Importers

For the purposes of this inquiry, the Commission identified the largest importers of HSS from Thailand reported in the Australian Border Force (ABF) import database. These identified importers collectively accounted for approximately 96 per cent of the importations of the goods from Thailand during the inquiry period. These importers were contacted and invited to participate in the inquiry by completing an Importer Questionnaire.

In relation to the goods imported from Thailand, the Commission received a response to the importer questionnaire (RIQ) from the following companies:

- Macsteel International Australia Pty Ltd (Macsteel); and
- GP Marketing International Pty Ltd (GP Marketing).

Macsteel provided a complete RIQ and was visited for the purposes of the verification of its information. The verification report for Macsteel is available on the EPR.¹⁶

GP Marketing provided an incomplete RIQ. The Commission undertook a desktop verification of the information provided.

The Commission placed a copy of the importer questionnaire on its website for completion by other importers that were not contacted directly. No other responses were received.

2.3.5 Exporters

For the purposes of this inquiry, the Commission identified the largest suppliers of HSS from Thailand reported in the ABF import database and provided them with an exporter questionnaire and associated spreadsheets for completion. The identified suppliers accounted for approximately 96 per cent of the total shipments (by volume) of the goods reported in the ABF import database. The Commission placed a copy of the exporter questionnaire on its website for completion by other exporters that were not contacted directly. The Commission received an additional response.

The Commission received three responses to the exporter questionnaire (REQ) from the following companies:

- Thai Premium Pipe Co., Ltd. (TPP);
- Saha Thai Steel Pipe Public Company Limited (Saha Thai); and
- Pacific Pipe Public Co., Ltd. (Pacific Pipe).

The non-confidential versions of the REQs¹⁷ and the verification reports¹⁸ in relation to these exporters are available on the Commission website.

¹⁵ EPR 532, [document nos. 15](#) and [20](#) refer, respectively.

¹⁶ EPR 532, [document no. 10](#) refers.

¹⁷ EPR 532, [document nos. 4, 8](#) and [5](#) refer, respectfully.

¹⁸ EPR 532, [document nos. 14, 17](#) and [21](#) refer, respectfully.

2.3.6 Submissions received from interested parties

The Commission has received submissions from interested parties throughout the course of the inquiry as set out in Table 4. Non-confidential versions of all submissions received are available on the EPR. Where relevant, submissions made to the concurrent review of measures in relation to exports of HSS from China, Korea, Malaysia, Taiwan and Thailand have also been considered in this inquiry.¹⁹

Submission from	Date published on EPR	Document No.
Orrcon	27 November 2019	5 (EPR 529)
Orrcon	13 March 2020	11
ATM	29 April 2020	16
Saha Thai	5 May 2020	17
ATM	5 May 2020	18
ATM	15 May 2020	22
ATM	10 June 2020	25
Orrcon	10 June 2020	26
ATM	10 June 2020	27
Orrcon	16 June 2020	28
ATM	23 June 2020	29

Table 4: Submissions received

The Commission has had regard to all submissions received on or prior to 9 June 2020 in preparing this report. The submissions received after this date have also been considered as to do so, in the Commissioner's opinion, would not have delayed the timely preparation of this report to the Minister.²⁰

¹⁹ EPR 529 refers.

²⁰ Section 269ZHF(4) refers.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Finding

The Commissioner considers that the locally manufactured HSS is a like good to the goods the subject of the applications. The Commissioner considers that there is an Australian industry, which comprises predominantly ATM and Orrcon, producing like goods, and that the like goods are wholly manufactured in Australia.

3.2 Legislative and policy framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, dumping or subsidisation, the Commissioner firstly determines whether the goods produced by the Australian industry are “like” to the imported goods. Section 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 inquiry in determining the normal value of goods exported to Australia, the non-injurious price (NIP) and the goods subject to the anti-dumping measures. The Commission’s framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the Manual).²¹

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commissioner must also consider whether the “like” goods are in fact produced in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia. The following therefore establishes the scope of the Commission’s inquiry.

3.3 The goods

The goods subject to the anti-dumping measures 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.

²¹ Available on the Commission’s [website](#).

PUBLIC RECORD

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.²²

The following categories of HSS are excluded from the goods:

- conveyor tube made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface) and out of round standards (i.e. ovality) which do not exceed 0.6 mm 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.

The goods include all electric resistance welded pipe and tube made of steel meeting the above description of the goods (and exclusions), regardless of whether or not the pipe or tube meets a specific structural standard or is used in structural applications.

3.3.1 Tariff classification

The goods may be classified in Schedule 3 to the *Customs Tariff Act 1995* as follows:

Tariff Subheading	Statistical Code	Description
7306	OTHER TUBES, PIPES AND HOLLOW PROFILES (FOR EXAMPLE, OPEN SEAM OR WELDED, RIVETED OR SIMILARLY CLOSED), OF IRON OR STEEL:	
7306.30	Other, welded, of circular cross-section, of iron or non-alloy steel:	
7306.30.00	<i>Exceeding 21 mm but not exceeding 60.3 mm external diameter:</i>	
	31	Wall thickness not exceeding 2.5 mm
	32	Wall thickness exceeding 2.5 mm but not exceeding 3.6 mm
	33	Wall thickness exceeding 3.6 mm
	<i>Exceeding 60.3 mm but not exceeding 114.3 mm external diameter:</i>	
	34	Wall thickness not exceeding 3.2 mm
	35	<i>Wall thickness exceeding 3.2 mm but not exceeding 4.5 mm</i>
	36	<i>Wall thickness exceeding 4.5 mm</i>
	37	<i>Exceeding 114.3 mm but not exceeding 165.1 mm external diameter</i>
7306.50.00	45	<i>Other, welded, of circular cross-section, of other alloy steel</i>
7306.6	Other, welded, of non-circular cross-section	
7306.61.00	<i>Of square or rectangular cross-section, of iron or non-alloy steel, not exceeding 279.4 mm perimeter:</i>	
	21	Wall thickness not exceeding 2 mm
	22	Wall thickness exceeding 2 mm
	25	Exceeding 279.4 mm perimeter
	90	Other
7306.69.00	10	Of other non-circular cross-section
7306.90.00	12	Other

Table 5: General tariff classification for the goods

²² As set out in [ADN No. 2014/59](#) and [REP 254](#).

3.4 Model control codes

The Commission has used a model control code (MCC) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values (the basis for using a MCC structure and the Commission's practice is explained in ADN No. 2019/132).

All interested parties participating in this inquiry provided sales and cost data in accordance with the MCC structure detailed in Table 6.

Item	Category	Sub-category	Identifier	Sales Data	Cost data	Key category
1	Prime	Prime	P	Mandatory	Not applicable	Yes
		Non-Prime / downgrade	N			
2	Galvanising	Galvanised	G	Mandatory	Mandatory	No
		None (e.g. mill finish, 'black')	N			
3	Finish	Oiled	O	Mandatory	Mandatory	No
		Painted	P			
		No oil or paint	N			
4	Shape	Circular	C	Mandatory	Mandatory	Yes
		Rectangular or square	R			
5	Steel grades - nominal minimum yield strength	Structural steel grade with nominal minimum yield strength less than or equal to 300 MPa	250	Mandatory	Optional	No
		Structural steel grade with nominal minimum yield strength greater than 300 MPa but less than 380 MPa	350			
		Structural steel grade with nominal minimum yield strength equal to or greater than 380 MPa	450			
		Non-structural steel grade	N			
6	Ends	Plain	P	Optional	Optional	No
		Threaded (at one or both ends)	T			
		Threaded and coupled	C			

Table 6: Model control code for HSS

Any changes to the proposed MCC structure or alterations in terms of its application in respect of each interested party have been addressed in the relevant verification reports.

3.5 Like goods

The following sets out the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'. For the purposes of the findings below, the Commission has relied on information obtained from the verification of ATM's and Orrcon's manufacturing facilities, the onsite verification of TPP, and information provided by exporters of the goods from Thailand.

3.5.1 Physical likeness

The Commission found that the goods exported to Australia from Thailand are physically similar to the HSS produced by the Australian industry. The Commission found that the shapes and profiles (in terms of perimeter, diameter, length and thickness), coatings and finishes of the HSS imported from Thailand have characteristics closely resembling those produced and sold by Australian producers.

In addition, the goods exported from Thailand and the goods produced by the Australian industry are sold in Australia having regard to the relevant Australian Standards for HSS. Each Australian Standard specifies the minimum chemical, mechanical and thermal properties required to achieve the relevant specification, and a test certificate certifies that the relevant Australian Standard has been met or exceeded. Accordingly, HSS from Thailand or from the Australian industry of the same shapes and profiles will also have similar chemical, mechanical and thermal characteristics if certified to the same Australian Standard.

3.5.2 Commercial likeness

The Commission found that the goods exported to Australia from Thailand are commercially similar to the HSS produced by the Australian industry. The Commission found that the goods are sold via the same channels, to the same or similar customers, and compete directly for sales to those customers. In addition, customers have regard to the pricing of the HSS from Thailand (and other countries) when assessing the relative competitiveness of HSS prices from the Australian industry.

3.5.3 Functional likeness

The Commission found that the goods exported to Australia from Thailand are functionally alike to the HSS produced by the Australian industry. The Commission found that domestically produced goods are completely interchangeable with the imported goods, as the goods are used for similar end uses (Chapter 4.2 refers).

3.5.4 Production likeness

The Commission found that the goods exported to Australia from Thailand are produced in essentially the same way as the HSS produced by the Australian industry. The Commission found that exporters from Thailand use the same raw material feedstock (hot rolled coil (HRC)) to produce HSS, and that the key processes (the slitting, rolling, forming, electrical resistance welding, application of coatings etc.) are essentially identical when the HSS is produced to the same standard and specification.

3.6 Australian industry

The Commission undertook verification visits to ATM and Orrcon in relation to their respective HSS production in the inquiry period.

ATM is wholly owned by Liberty InfraBuild Pty Ltd and produces HSS at two facilities, located in Newcastle (in New South Wales), and Acacia Ridge (in Queensland).

Orrcon is wholly owned by BlueScope Steel Limited, and produces HSS at its plant located in Salisbury, Queensland.

ATM and Orrcon both identified Australian Pipe & Tube Pty Ltd (APT) as a third Australian industry member in their applications. ATM and Orrcon both estimated that APT's production of HSS accounted for less than five per cent of the Australian industry's overall production of HSS during the inquiry period.

Publically available information indicates that APT is a privately owned company, and that it is currently under external administration.²³ APT claims on its website²⁴ that it produces HSS at its tube mill in Victoria. The Commission contacted APT and attempted to confirm the status of APT as an Australian industry member in the inquiry period, however did not receive a response.

On the basis of the market intelligence available to ATM and Orrcon and in the absence of any information before the Commission to the contrary, the Commission accepts ATM and Orrcon's estimates of APT's production volume. Accordingly, the Commission considers that ATM and Orrcon are responsible for the vast majority of the Australian industry's production of HSS.

3.6.1 Production process

During visits to ATM and Orrcon, the Commission observed the production of the goods. The following processes occurred entirely at ATM's and Orrcon's facilities in Australia:

- raw material feed (black or pre-galvanised HRC) is purchased from suppliers;
- the HRC is loaded into a slitter, uncoiled and then slit to various widths, the edges trimmed, then re-rolled into smaller slit coils ready for use;
- the slit coil is then loaded into an accumulator where it is unrolled and fed into a mill for formation into pipe and tube;
- the slit coil is formed through a series of rolling stands into a pipe shape. The pipe is welded along the seam, using an electric resistance welding process, into a continuous hollow round tubular shape;
- the round tubular HSS is then further formed through rolling stands into square, rectangular and other shapes/cross sections as required;
- the product is surface finished by applying various protective coatings such as paint, varnish or oil. Alternatively, if the HSS has been produced from a pre-galvanised feed strip, additional galvanising may be applied to the weld seam; and
- the HSS is cut to length, bundled and placed in racks ready for storage or despatch to customers.

3.7 Conclusion

The Commission has found that the locally produced goods closely resemble the goods the subject of the applications and are like goods, given that:

- the physical characteristics of the locally produced goods closely resemble the imported goods;
- the imported and locally produced goods are commercially alike as they are sold to the same customers and compete in the same markets;
- the imported and locally produced goods are functionally alike as they have the same end uses and are substitutable; and
- the imported and locally produced goods are manufactured in a similar manner.

²³ www.asic.gov.au refers.

²⁴ www.auspiPETube.com.au refers.

PUBLIC RECORD

Based on the information obtained from the verification visits and submissions, the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia;²⁵ and
- there is an Australian industry which produces like goods in Australia.²⁶

²⁵ Section 269T(2) refers.

²⁶ Section 269T(4) refers.

4 AUSTRALIAN MARKET

4.1 Approach to analysis

As discussed in Chapter 3, the Australian industry for HSS comprises at least ATM and Orrcon. The analysis detailed in this chapter is based on verified financial information submitted by ATM and Orrcon, import data from the ABF import database as well as verified importer and exporter information.

The period from 1 October 2013 to 30 September 2019 has been examined for the purposes of analysing trends in the Australian market for HSS and for making observations with respect to the economic condition of the Australian industry.

The Commission's analysis is contained in **Confidential Attachment 1**.

4.2 The goods in the Australian market

HSS is used in a wide range of products and structures, including (but not limited to) sign posts, scaffolding and fencing, vehicle chassis, playground equipment, major structural engineering applications and mining equipment. These end uses largely fall into four main market segments:

- Building and Construction (e.g. residential and non-residential construction, building and fencing for agricultural uses etc.);
- Manufacturing (e.g. automotive market, trailers, furniture etc.);
- Engineering (e.g. heat exchangers, heavy structural fabrication, mining etc.); and
- Fluids (e.g. bore drilling, industrial plumbing etc.).

Within these segments there can be some substitutability of HSS with other products (e.g. fibreglass / composite forms of scaffolding), but otherwise HSS is a ubiquitous product in the Australian market.

Local production of HSS is supplemented by imports, with distributors and end-users engaging with producers from a range of locations. HSS is a commodity product, and provided the goods meet the relevant Australian Standard and the grade requirements for the desired end use, there are limited ways in which suppliers can differentiate their offering beyond price and service.

4.2.1 Drivers of demand

The Commission understands that HSS demand is closely aligned to domestic economic performance, and is therefore susceptible to changes in both government and private investment. The degree to which demand is sensitive to these changes can differ between market segments, and the effect of changes in demand are not necessarily experienced consistently in different market segments. There are therefore a diverse range of factors at play that contribute to demand for HSS in the Australian market.

Australian industry members (and importers) have regard to forecasts for demand to manage their supply chains accordingly. The Australian industry advised that the building and construction and manufacturing segments are significant sources of demand for HSS. Noting the channels to market (discussed below) and the significance of distributors (through whom the majority of sales are made to end users), these macro-level analyses provide the Commission with an understanding of broader trends which impact on demand for HSS.

PUBLIC RECORD

Figure 1 shows trends in investment in residential and non-residential building and construction since 2013, with the current inquiry period outlined in red.

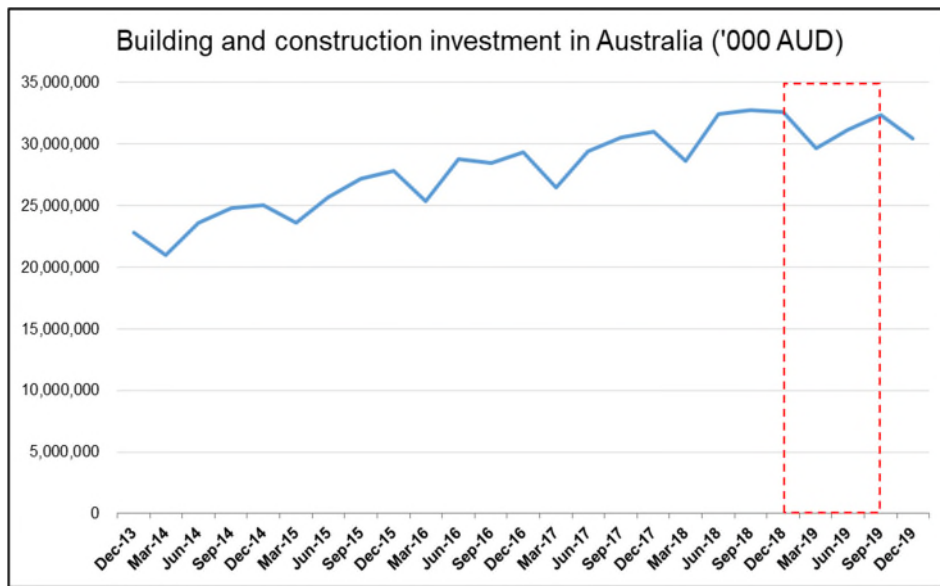


Figure 1: Building and construction sector in Australia

Source: Australian Bureau of Statistics²⁷

Figure 1 demonstrates that investment in this sector is seasonal, but has been generally trending upwards over the last six years. Similarly, the Australian Industry Group *Performance of Manufacturing Index* (PMI), which records whether manufacturing activity is expanding or contracting, indicates that manufacturing in Australia was in a growth phase between 2016 and 2020; Figure 2 refers.

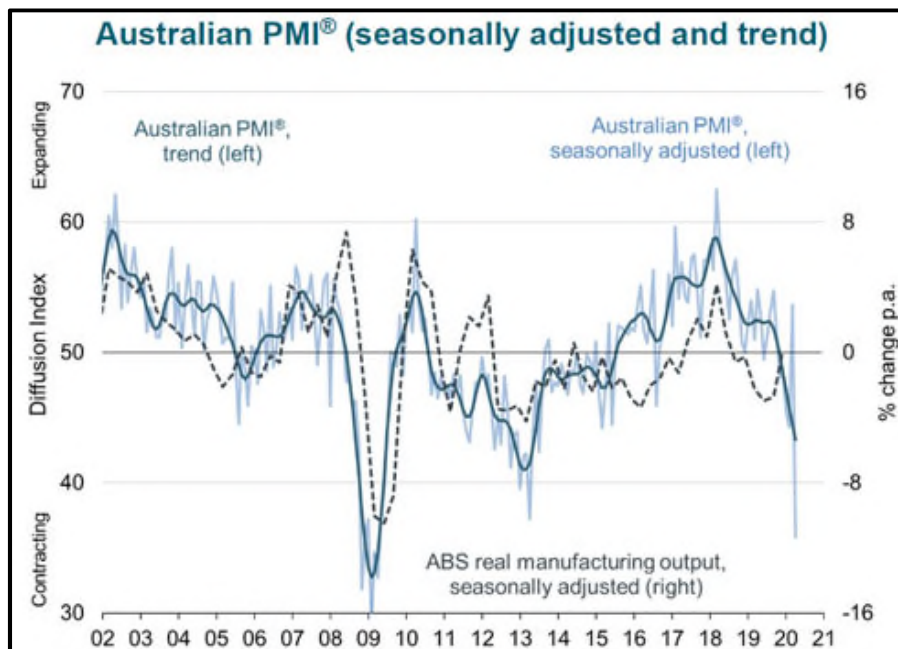


Figure 2: Performance of Manufacturing Index

Source: Australian Industry Group²⁸

²⁷ Available from the Australian Bureau of Statistics (ABS) [website](#). Data from section 8752.0 Building Activity, Australia (Table 40).

²⁸ Available from the Australian Industry Group [website](#), updated as at April 2020.

The Australian industry also stated that there is typically an increase in HSS sales during May and June each year due to increased demand in the agricultural industry. This is believed to be largely driven by the desire to resolve any outstanding repairs and maintenance prior to the end of the financial year (FY). A peak sales period also occurs in the September quarter each year, as the construction and building sector generally submits its orders prior to quiet periods in December and January.

4.2.2 Channels to market

The Australian industry sells HSS to distributors, resellers and (less frequently) directly to end-users. Product is despatched to customers from inventory which is held at the Australian manufacturer's steel mills. Once sold, the products are transported via truck or train to the customer.

Exporters utilise essentially the same channels to market. This structure is detailed in Figure 3.

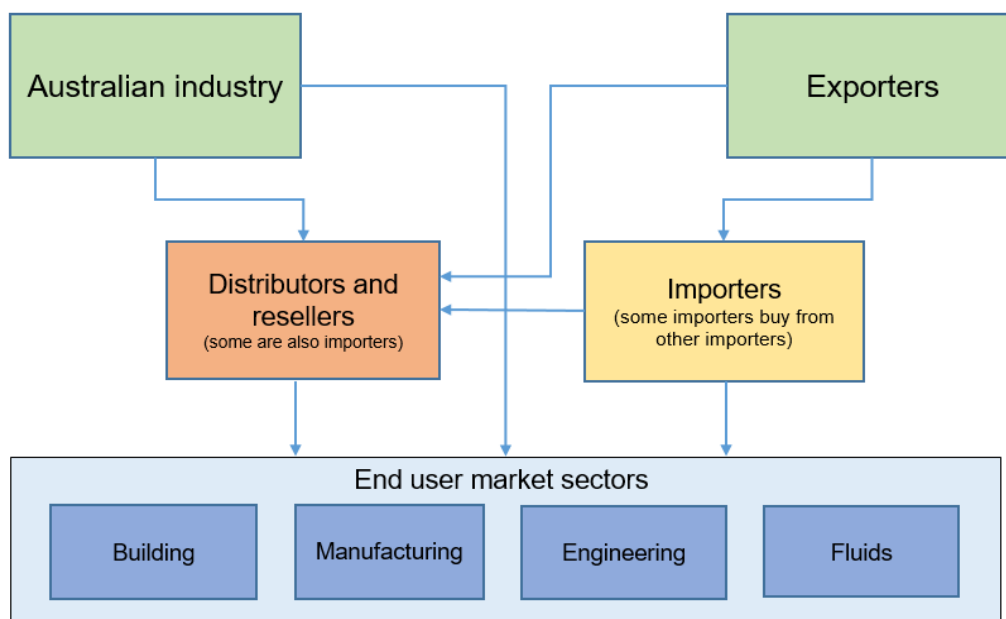


Figure 3: Channels to market

The Australian industry is able to supply HSS from stock (if available) or from scheduled production. The supply of HSS from stock can occur within a matter of days, whereas the supply from production may be several weeks or months later. In contrast, the lead time from order confirmation through to the receipt of the goods from an exporter is approximately 2 to 3 months.

4.2.3 Structural changes in the market

In September 2017 there were significant changes to the corporate structure that included ATM. ATM was formerly a part of the Arrium Group, which entered administration before being acquired by Liberty OneSteel (MDR) UK Limited. A re-organisation by the ultimate parent entity in 2019 saw operational control of ATM pass to InfraBuild Australia Pty Ltd (InfraBuild), a member of GFG Alliance.²⁹

²⁹ ATM's [website](#) refers.

In August 2019, Infrabuild also acquired Dalian Steelforce Hi-tech Co., Ltd (a Chinese producer of HSS) and its related party businesses in Australia (Steelforce Holdings Pty Ltd and subsidiaries) which is an importer and distributor of HSS.³⁰

In March 2018, Commercial Metals Company was acquired by Macsteel International Trading Holdings B.V., and became Macsteel.

4.2.4 Sales process

Purchasers of HSS (i.e. those desiring HSS for use in manufacturing, engineering, building / construction and fluids market segments) will usually place their orders with either a distributor or re-seller of HSS. The distributor or re-seller will then have regard to its own customers' orders and its anticipated demand when placing an order for HSS from either the Australian industry or from an importer / exporter. Whilst the Australian industry and importers can sell direct to the end user, the Australian HSS market predominately operates via the distributor and re-seller channel. In addition, sales of HSS can occur between end user market segments, such as engineering customers selling value-added HSS to the building and construction sector.

For customers of any scale there will often be a pre-existing relationship with the HSS producer. Discount and rebate schemes are therefore a common feature of the market, used to engender customer loyalty and increase sales volumes over the longer term. Customers will therefore seek to compare net price offers and potential delivery timeframes to achieve the best value for money, whilst having regard to the broader commercial relationship and market conditions.

Orders are typically placed via electronic ordering systems, phone or by email to a sales team or sales representative. Negotiation generally occurs at this point to seek the best combination of price, volume and delivery arrangements that is advantageous to both parties. For example, some reduced pricing may be offered in return for an increased sales volume, or an urgent delivery might attract a price premium. Once the terms of the sale are agreed, the HSS is supplied (either from stock or production).

For importers, regard may also be had to foreign exchange (forex) considerations and the timeliness of delivery. Many importers have long term relationships in place with preferred suppliers, and can manage supply reliability via regular communication and negotiation with respect to anticipated demand in the Australian market and forward orders.

4.2.5 Pricing

Pricing in the Australian market tends to follow a monthly cycle, with the regular development of price lists which have regard to prevailing market conditions. Customers and sellers frequently negotiate on the basis of the price list, having regard to the availability of supply, geographical considerations such as the cost of delivery, customer preferences (the Commission notes that some customers show a clear preference for HSS produced in Australia), market intelligence (particularly competitor pricing information) and customer relationships (such as strategic importance to the seller). In some circumstances, there is no price list and the final price is negotiated on a transaction by transaction basis.

³⁰ The relevant media release from GFG Alliance's [website](#) refers.

The Australian industry has regard to import price offers when setting prices. Its customers have ready access to both locally produced and imported products which are essentially interchangeable, and are therefore in a position to seek the most favourable terms, including price and anticipated delivery timeframes, and frequently negotiate on this basis. Many customers for HSS also maintain multiple sources of supply to enable them to meet their own customers' requirements and to ensure competitive pricing, and to minimise the risk of supply disruptions (e.g. due to maintenance or other unplanned shut down) impacting on their own business.

Because of the Australian industry's ability to supply from stock with shorter delivery timeframes than imported sources, the Australian industry is generally able to command a small price premium. Whilst importers are also able to supply from stock, this is generally in smaller volumes or across a narrower range of products. The urgency with which a customer seeks the supply of HSS therefore also impacts its sensitivity to price in the market.

4.3 Market size

To estimate the size of the Australian HSS market, the Commission has combined the verified sales data from ATM and Orrcon, with information from the ABF import database and verified information from importers and exporters.³¹

Figure 4 shows the annual volume of HSS sold in the Australian market since 1 October 2013. The Australian market for HSS was in excess of 500,000 tonnes during the inquiry period.

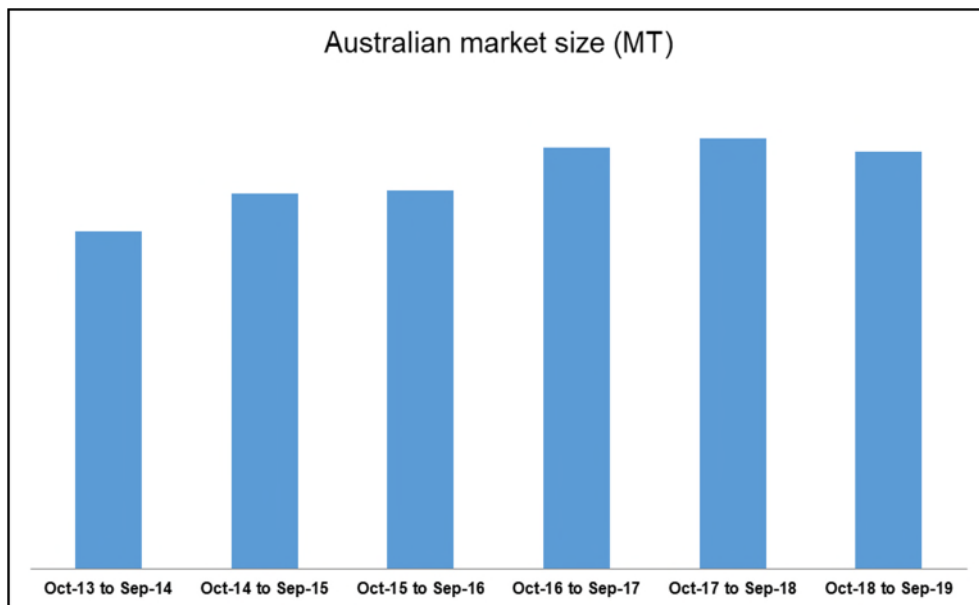


Figure 4: Australian HSS market size since 1 October 2013

The Commission observes that the trends in the overall market for HSS largely correspond to the trends indicated in Figure 1 and Figure 2.

³¹ No amount has been estimated for APT in this analysis.

5 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

5.1 Approach

This chapter considers the economic condition of the Australian industry since October 2013. The observations in this chapter are based on verified financial information submitted by ATM and Orrcon, import data from the ABF as well as verified importer information submitted. In the absence of information from APT and noting its estimated small production volumes, the Commission considers the economic condition of ATM and Orrcon to be representative of the Australian industry as a whole.

The period from 1 October 2013 to 30 September 2019 has been used for the purposes of identifying trends in the economic condition of the Australian industry after the imposition of the anti-dumping measures for exports from Thailand. The data and analysis on which the Commission has relied to assess the economic position of the Australian industry is at **Confidential Attachment 2**.

Consideration of whether it is likely, in the absence of the anti-dumping measures, that material injury caused by dumping will continue or recur is considered in Chapter 7.

5.2 Findings in original investigation

REP 254 found that the Australian industry (represented by ATM, APT and Orrcon) at that time had experienced injury in the form of:

- price suppression;
- reduced profits and profitability;
- reduced domestic revenues;
- reduced capital investment;
- reduced return on investment;
- write-down of goodwill associated with the HSS business;
- reduced research and development expenditure;
- reduced production and capacity utilisation; and
- reduced employment.

5.3 Volume effects

5.3.1 Sales volume

Figure 5 demonstrates the Australian industry's total sales volume for HSS in the Australian market since 1 October 2013. Since measures were implemented on imports of HSS from Thailand in August 2015, the Australian industry's sales volume has marginally increased.

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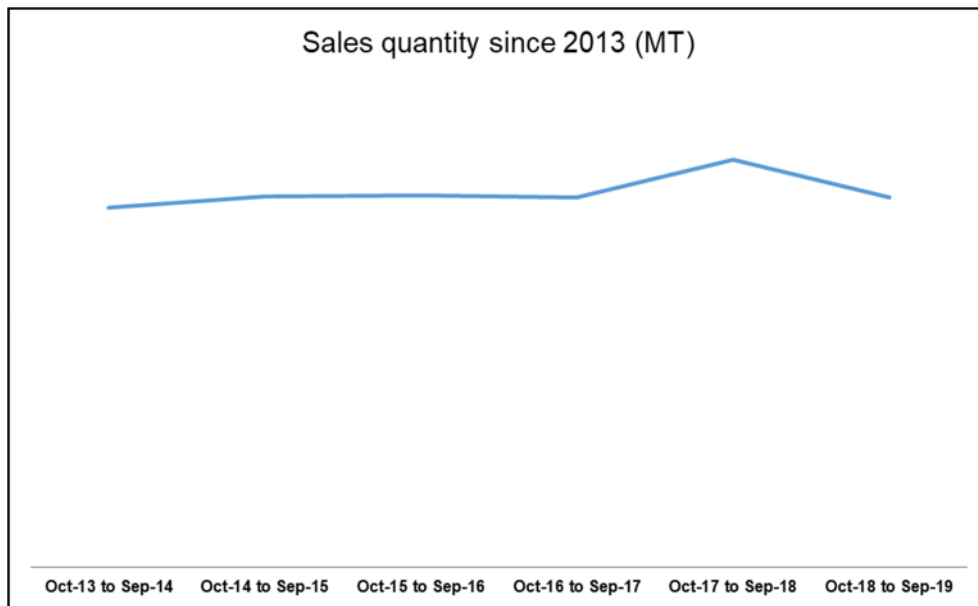


Figure 5: Australian industry's domestic sales volume (MT)

The Australian industry experienced a spike in sales volume in the year ending (YE) September 2018, which coincided with increased demand in the building and construction (Figure 1 refers) and manufacturing segments (Figure 2 refers).

Figure 6 shows that, within the inquiry period, the Australian industry's sales volume was affected by the same seasonality that was apparent in Figure 1.

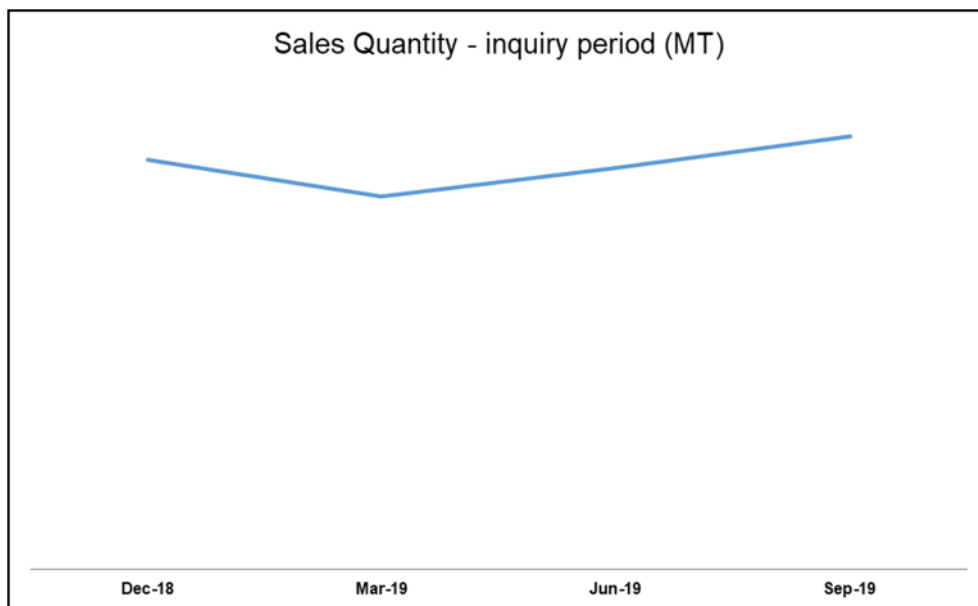


Figure 6: Sales volume of all HSS during the inquiry period (MT)

5.3.2 Market share

The following graph shows changes in market share between the Australian industry, Thailand, other countries subject to measures and all other sources from October 2013. As was shown in Figure 4, the overall market was growing across the period examined, apart from a slight decline in the YE September 2019. In this context, Figure 7 demonstrates that the Australian industry's share of the market has generally declined over the same period.

PUBLIC RECORD

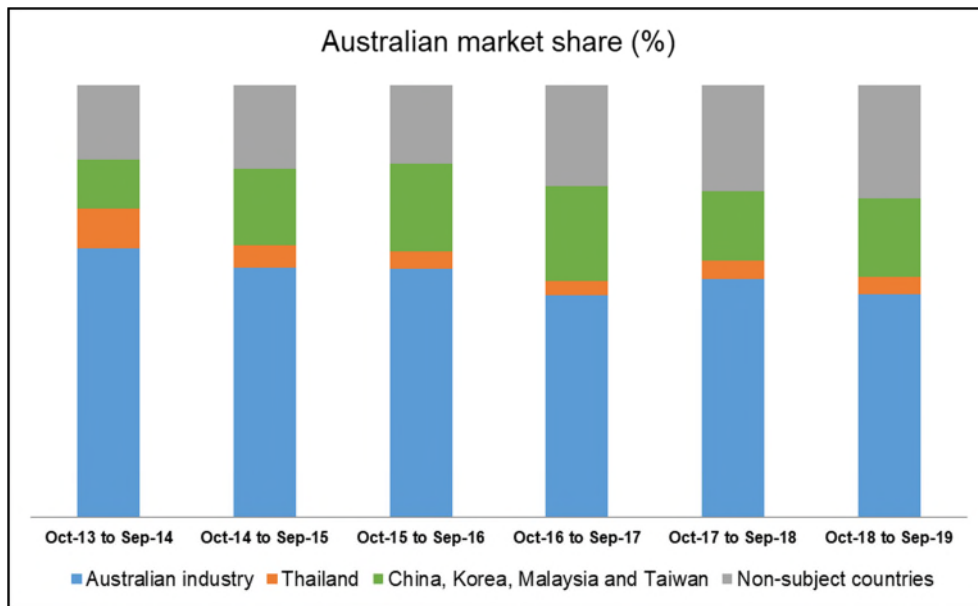


Figure 7: Market share by source

5.4 Price effects

5.4.1 Comparison of price and costs

Figure 8 compares the Australian industry's unit price and unit cost to make and sell (CTMS) for HSS (both black and galvanised) from 1 October 2013. Figure 8 shows that unit costs and unit prices are very closely related across the period.

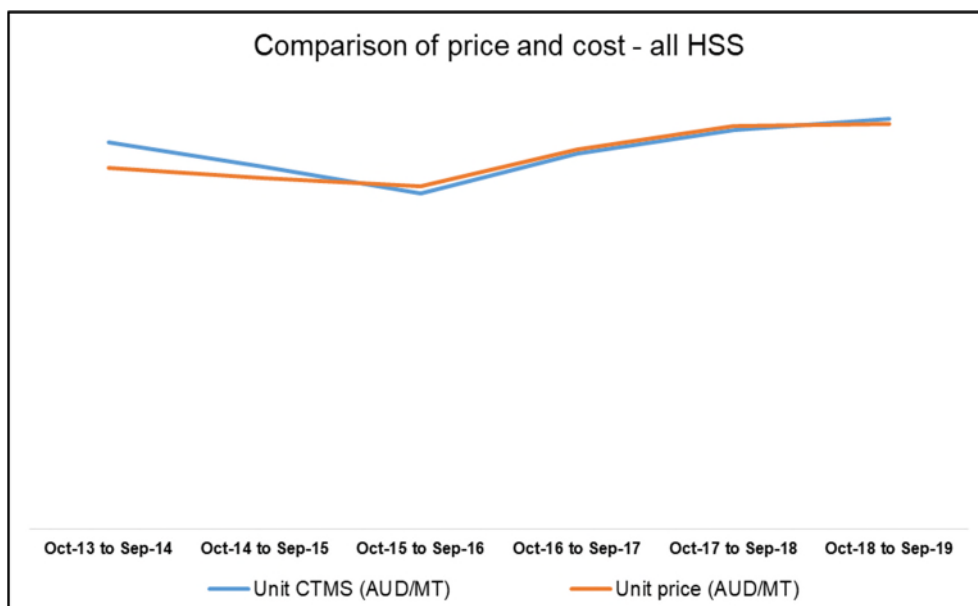


Figure 8: Comparison of the Australian industry's unit costs and unit prices (all HSS)

In Figure 9 the Commission also compared the unit CTMS and unit price for black HSS and galvanised HSS.

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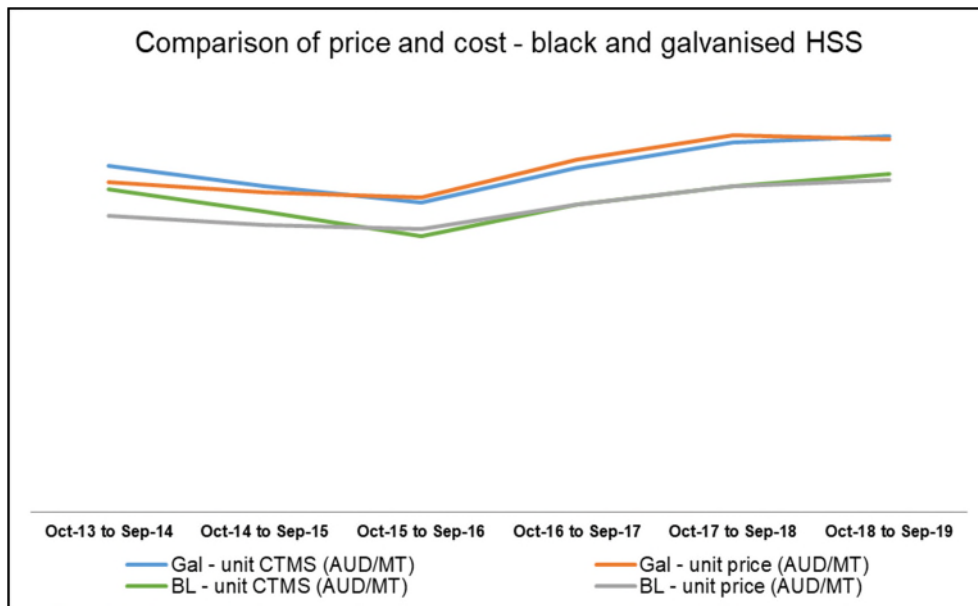


Figure 9: Comparison of the Australian industry's unit costs and unit prices (black and galvanised)

Figure 9 also shows that the margin between unit price and unit CTMS has been generally more favourable for galvanised HSS than black HSS across the period. A similar outcome occurred within the inquiry period.

5.5 Profits and profitability

Figure 10 shows trends in profit and profitability for the Australian industry from 1 October 2013.

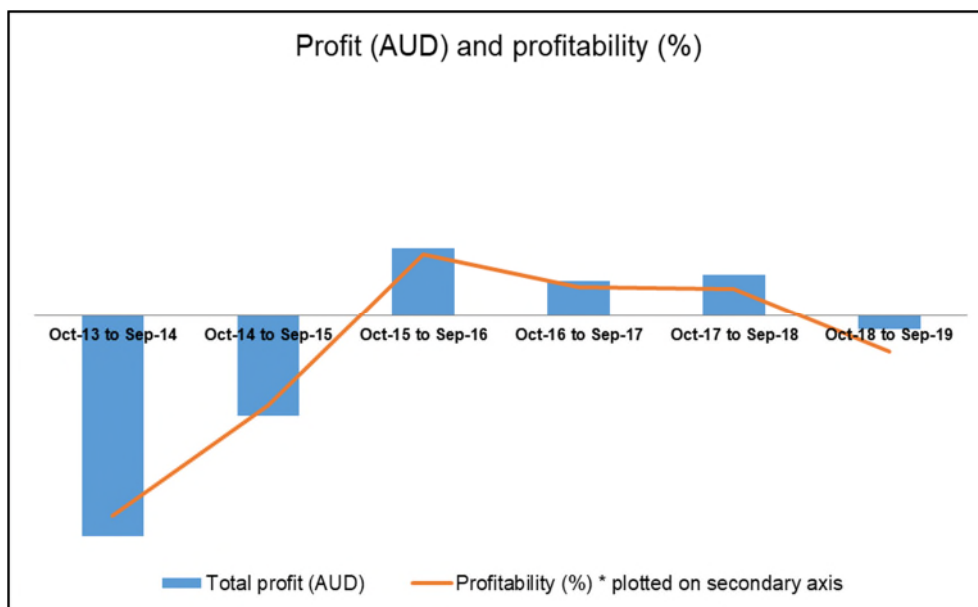


Figure 10: Profit and profitability

Figure 10 demonstrates that the Australian industry's profit and profitability improved in the period October 2013 to September 2016, but afterwards declined.

5.6 Revenue

Figure 11 shows revenue trends for the Australian industry for HSS. Sales volume has also been plotted to demonstrate the relationship between price and volume.

PUBLIC RECORD

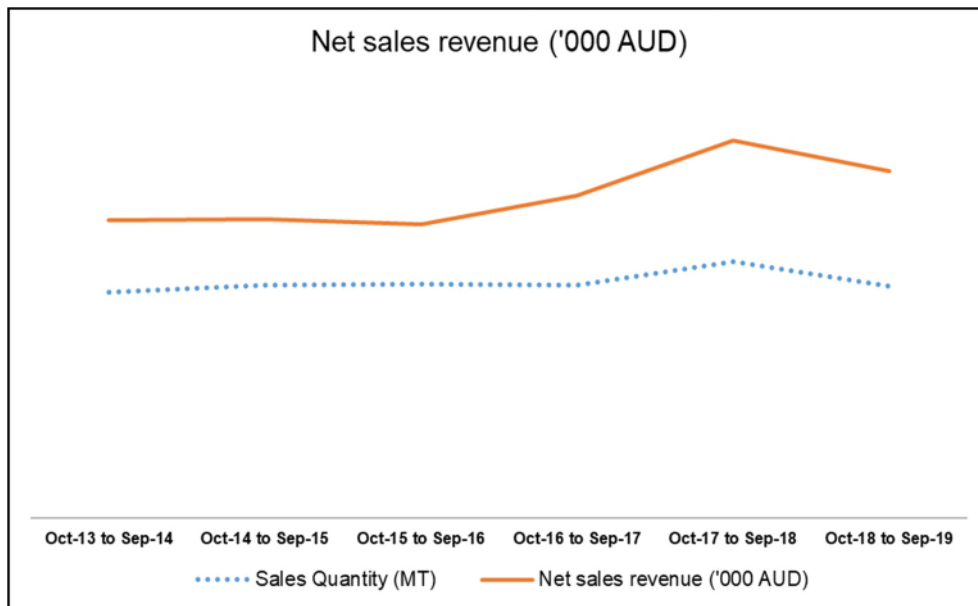


Figure 11: Comparison of revenue and sales volume

Figure 11 shows that the Australian industry's revenue outcome has been largely driven by changes in price rather than by increases in sales volume.

5.7 Other economic factors

The Australian industry provided information pertaining to other economic factors. Orrcon provided information for the calendar years from 2015 to 2018, and for the period 1 January to 30 September 2019. ATM provided information for the FY, being the periods 1 July to 30 June, from 2010 to 2019. The Commission has commented on the other economic factors as they relate to each Australian industry member below.

5.7.1 ATM other economic factors

In relation to ATM, the Commission notes the following trends, from FY 2011 to FY 2019:

- the value of assets associated with the production of like goods has trended downwards consistently over the period, though the rate of reduction has accelerated in the two years prior to the inquiry period;
- the number of persons employed by ATM has been on a steady decline for most of the period, before stabilising from FY 2016;
- productivity sharply improved in FY 2016 coinciding with a significant reduction in staff numbers and a reduction in overall capacity;
- production capacity declined sharply in the middle of the period examined, but has remained relatively stable otherwise;
- ATM has operated at slightly above half capacity in the last five years of the period;
- return on investment has been negative in all years examined, except for positive outcomes in FY 2016 and FY 2017;
- closing stock has been on a generally declining trend, but increased sharply in FY 2019; and
- inventory turnover numbers were generally low, and although this improved (along with reduced stocks held) it deteriorated when sales volumes declined in FY 2019.

5.7.2 Orrcon other economic factors

The Commission notes the following trends from calendar year 2015 to calendar year 2018 and 1 January to 30 September 2019 for some factors, in relation to Orrcon:

- asset values pertaining to the production of like goods increased consistently;
- employment numbers increased from 2016 to 2017, but then decreased in the following year. Wages followed the same trend;
- productivity improved from 2016 to 2018;
- production capacity increased in 2017 and has remained stable since;
- Orrcon has operated at close to full capacity throughout the period examined during 2016 and 2017;
- closing stock trended upwards throughout the period;
- inventory turnover increased from 2015 to 2016, in line with an increase in revenue during the same period; and
- return on investment declined from 2016 and 2017, which coincided with a significant drop in capital investment in the same period.

6 VARIABLE FACTORS ASSESSMENT

6.1 Finding

For the purpose of assessing whether the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, dumping, the Commission has ascertained all variable factors relevant to the taking of the measures during the inquiry period. The Commission has found that the variable factors have changed for all exporters of the goods from Thailand.

6.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and the material injury that the anti-dumping measure is intended to prevent. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC, respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Dumping margins are determined under section 269TACB.

For all dumping margins calculated for the purposes of this inquiry, the Commission compared the weighted average export prices over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of that period, in accordance with section 269TACB(2)(a).

The Commission's calculations are included at **Confidential Attachment 3**.

6.2.1 Uncooperative exporters

Section 269T(1) provides that an exporter is an "uncooperative exporter" where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the continuation inquiry within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.

After having regard to the Direction, the Commissioner has determined that all exporters which did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the legislated period, are uncooperative exporters for the purposes of this inquiry.

6.2.2 Identity of the importer

Section 269T(1) defines the importer as:

the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they have landed.³²

In respect of the HSS that was imported from Thailand during the inquiry period, and in respect of their relevant consignments, the Commission has found that Macsteel and GP Marketing:

- were named on the commercial invoice from their respective suppliers of HSS from Thailand;
- were named as the consignee on the bill of lading;
- declared themselves as the importer on the importation declaration to the ABF;
- paid for all the importation charges and arranged delivery from the port; and
- paid their respective suppliers of HSS from Thailand according to the agreed terms.

The Commission also had regard to the nature of the import transactions and found no evidence that:

- there was any consideration payable for or in respect of the goods other than their price;
- the price appeared to be influenced by a commercial or other relationship between the buyer and the seller; nor
- that any reimbursement or compensation subsequent to the sale was payable in respect of the whole or any part of the price.³³

The Commission therefore considers that the HSS imported in the inquiry period by Macsteel and GP Marketing was purchased in arms length transactions.

6.2.3 Identity of the exporter

The Commission generally identifies the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.³⁴

The Commission's assessment is set out below.

³² The Manual, p.28.

³³ Section 269TAA refers.

³⁴ The Manual, p.29.

6.3 Pacific Pipe

The Commission conducted a desktop verification of Pacific Pipe's REQ. Relying on the information available and further inquiries, the Commission is satisfied that Pacific Pipe is a producer of the goods. A verification report is available on the EPR.³⁵

6.3.1 Export price

The Commission considers that there is insufficient information to ascertain the export price of the goods for Pacific Pipe under section 269TAB(1) due to an absence of exports to Australia during the inquiry period. However, the Commission notes that Pacific Pipe has been previously considered to be an exporter of HSS.³⁶

The Commission has therefore had regard to all relevant information under section 269TAB(3) to establish an export price for Pacific Pipe. Specifically, the Commission has had regard to the export prices established for other Thailand exporters which exported the goods to Australia during the inquiry period.

6.3.2 Normal value

The Commission is satisfied that there were sufficient volumes of Pacific Pipe's domestic sales of like goods that were sold in arms length transactions and at prices that were within the ordinary course of trade (OCOT), such that domestic sales of HSS by Pacific Pipe is comparable with the HSS exported to Australia by the other Thailand exporters and having regard to the MCC structure. The Commission is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic packaging	Deduct an amount for domestic packaging
Export packaging	Add an amount for export packaging
Export inland transport	Add an amount for export inland transport
Export handling and other charges	Add an amount for handling and other charges
Export credit terms	Add an amount for export credit terms
Specification adjustment	Add or deduct an amount for specification differences ³⁷

Table 7: Adjustments for Pacific Pipe normal values

³⁵ EPR 532, [document no. 21](#) refers.

³⁶ REP 254 refers. In REP 445, a review of measures, Pacific Pipe's export price was ascertained under section 269TAB(2B)(c) due to the absence / low volume of exports during the relevant review period; [ADN No. 2018/88](#) refers.

³⁷ The Manual, pg. 60 refers.

6.3.3 Dumping margin

The Commission calculated a dumping margin in respect of the goods exported to Australia by Pacific Pipe for the inquiry period. The dumping margin is **negative 4.3 per cent**.

6.4 Saha Thai

The Commission conducted a desktop verification of Saha Thai's REQ. Relying on the information available and further inquiries, the Commissioner is satisfied that Saha Thai is the producer of the goods. A verification report is available on the EPR.³⁸

During the inquiry period, the Commission verified that Saha Thai manufactured HSS in Thailand and knowingly arranged for that HSS to be exported to its Australian customers. The Commission considers that Saha Thai is a principal in the export transaction, as it:

- was named on the commercial invoice as the supplier of HSS from Thailand;
- was named as the consignor on the bill of lading;
- paid and arranged for all relevant exportation charges from the factory to the port of exportation; and
- received payment from its Australian customers of HSS according to the agreed terms.

The Commission also had regard to evidence of Saha Thai's production records, HSS cost data and sales information and found no evidence that:

- there was any consideration payable for or in respect of the goods other than their price;
- the price appeared to be influenced by a commercial or other relationship between the buyer and the seller; nor
- that any reimbursement or compensation subsequent to the sale was payable in respect of the whole or any part of the price.

The Commission has therefore concluded that Saha Thai is the exporter of the goods and its domestic and export sales of HSS were arm's length transactions.

6.4.1 Export price

In respect of all Australian sales of the goods made by Saha Thai during the inquiry period, the Commission has considered the following factors to determine whether exports from Saha Thai were arms length transactions.

The Commissioner is satisfied that there was no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

³⁸ EPR 532, [document no. 13](#) refers.

The export price for Saha Thai was therefore calculated under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.4.2 Normal value

The Commission is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for all HSS within the MCCs that were exported to Australia. The Commission is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Export packaging	Add an amount for export packaging
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export credit terms	Add an amount for export credit terms

Table 8: Adjustments for Saha Thai normal values

Submissions

ATM submitted a number of claims relating to the dumping margin calculation for Saha Thai.³⁹ These include:

- a request for the verification table for mapping MCC category “Steel grade” which was excluded from Saha Thai’s verification report;
- seeking clarification of whether P-N-P-C-250-P was exported to Australia in the inquiry period;
- clarifying information regarding Saha Thai’s related party domestic sales;
- a range of concerns relating to Saha Thai’s presentation of a single cost to make (CTM), the appropriate allocation of costs, and their impact on the dumping margin calculation;
- a claim that Saha Thai did not pay the relevant import duties (including the anti-dumping duties and safeguard measures) applicable to its imported HRC raw materials, and accordingly Saha Thai’s HRC costs are not competitive market costs;
- a request for forex gains / losses to be applied as a normal value adjustment; and
- various other claims in relation to incoterms, finance costs, credit terms and impact testing.

The Commission’s assessment of these claims is below.

³⁹ EPR 532, [document nos. 16](#) and [25](#) refer.

PUBLIC RECORD

As was noted in SEF 532, ATM requested that Saha Thai's verification report be updated to include "**Table 2: MCC sub-category determination**". The Commission confirmed that the MCCs were verified against source documents and that it was satisfied that the MCCs listed in Saha Thai's sales and cost data were accurate, including the sub-category for yield strength. The MCC's were verified to source documents in accordance with ADN No. 2016/30. In its submission following SEF 532, ATM again requested that the Commission provide the MCC table.⁴⁰

The MCC sub-category determination for Saha Thai is shown in Table 9.

Standard	250	350	N
AS	AS1074	AS1163	
ASTM	ASTM A135A ASTM A53A ASTM A53B		
BS	BS1387 Heavy		BS-A1
JIS	JIS G3444 JIS G3466		JIS G3452
STS			STS-M
TIS	TIS 107		TIS 276, 277 Type 2 TIS 276, 277 Type 4
Other			Made to order

Table 9: MCC sub-category determination

ATM requested that the Commission clarify what method was used to determine a normal value for the **export model P-N-P-C-250-P**. The Commission clarifies that Saha Thai did not export MCC P-N-P-C-250-P to Australia during the inquiry period. This MCC was inadvertently included in the verification report.

ATM requested that the Commission review the information relating to Saha Thai's **sales to related and unrelated parties** to ensure that a fair price comparison has been undertaken. As the verification report states, Saha Thai had several related party customers of the goods.⁴¹ The Commission's price analysis demonstrated that there is no consistent price difference between sales to related and unrelated customers. The price analysis took into account appropriate factors to ensure a fair comparison. In addition, the Commission found that the related party sales were immaterial in volume compared to Saha Thai's total domestic sales. As such, the Commission considers that all domestic sales made by Saha Thai to its related customers during the period were arm's length transactions.

ATM sought clarification regarding the basis of the calculation for Saha Thai's normal value in the inquiry period, requesting the CTM be reviewed by the Commission. ATM claimed that a **single CTM** (regardless of destination market) is inappropriate as it does not adequately address the additional cost of import duties incurred on imported HRC used by Saha Thai in the production of domestic HSS. ATM claims that Saha Thai can claim a rebate on the import duties if the HSS manufactured from the imported coil was subsequently exported.

⁴⁰ EPR 532, document no. [25](#) refers.

⁴¹ EPR 532, document no. [13](#) refers.

ATM made comparisons with Saha Thai's verification in the original investigation (REP 254), claiming that allocating HRC import duties to domestic HSS costs only was the correct approach.⁴² The Commission confirms that Saha Thai does not differentiate its costs on the basis of market, due to the similarity of products sold domestically and for export. The Commission therefore considers that it was not unreasonable for Saha Thai's costs to be presented as a single CTM – this approach is consistent with the finding in REP 254. As a result of its verification activities, the Commission considers that the CTM is complete and inclusive of all relevant costs.

ATM claims that the cost of Saha Thai's HRC import duties should be allocated solely to its domestic production and not its export production, rather than being included in the single CTM. The Commission notes that some aspects of this claim were also relevant to REP 254. Following the verification at that time, it was recommended (and REP 254 accepted) that the most accurate approach to calculating Saha Thai's CTM (and hence normal value) was to use Saha Thai's costs with import duties allocated across all production and without a downwards duty drawback adjustment to the normal value.⁴³ REP 254 also noted submissions made on this point: Saha Thai claimed that it should be the beneficiary of a downwards adjustment to the normal value to account for the additional HRC import duty costs on the domestic HSS CTM and the rebates applicable for exported HSS, whereas ATM claimed that, as Saha Thai could not adequately substantiate cost differences between its domestic and export goods, Saha Thai's claim must fail.⁴⁴

The Commission considers that the factual circumstances examined in REP 254 remain the same, such that Saha Thai's records do not permit the allocation of import duties and any associated duty drawback to its domestic or export production, as appropriate. The Commission notes that Saha Thai's records are audited and are in accordance with the generally accepted accounting principles (GAAP) applying in Thailand, and the manner in which those records have been kept are not in sufficient detail to enable the Commission to allocate the import costs in the manner that ATM requests. In any event, the Commission observes that Saha Thai did not claim in this inquiry that its domestic HSS production was more expensive because it was eligible for a duty drawback on HRC used in its exported HSS; such a claim, if able to be verified, would have resulted in a *downwards* adjustment to the normal value in order to achieve a fair comparison between the normal value and the export price.

ATM also claims that Saha Thai's **HRC costs are not competitive market costs** if they do not include all of the duties applicable to imported HRC. ATM is of the view that Saha Thai has not paid the anti-dumping and safeguard duties applicable to imported HRC and, by doing so, has subverted the intention of those measures to create a competitive HRC market in Thailand. As such, in ATM's view, this subversion effectively amounts to HRC costs that do not reasonably reflect a competitive market cost.⁴⁵ ATM's evidence in support of its claim is that import duties appear to be recorded in Saha Thai's balance sheet under current liabilities as opposed to being captured under the cost of goods sold, which to ATM means that the duties are unpaid and/or are not captured in the CTM. ATM also provided a set of hypothetical scenarios and calculations to illustrate the impact of excluding the HRC import duties on the CTM and subsequently the normal value.

⁴² EPR 532, document no. [25](#) refers.

⁴³ EPR 254, document no. [31](#) refers.

⁴⁴ EPR 254, document no. [52](#) refers.

⁴⁵ EPR 532, document no. [25](#) refers.

As noted previously, Saha Thai's audited financial statements are within the GAAP, and that as a result of the Thailand GAAP the current liabilities are properly excluded from the actual costs of production in the inquiry period. The duties and taxes identified by ATM and alleged to be unpaid relate to the operation of a bonded warehouse; accordingly, any goods (HRC or otherwise) stored in that warehouse result in the accrual of relevant duties and taxes as a liability. Such duties and taxes are paid once Saha Thai withdraw the HRC (or other goods) to enter production. The Commission has examined but has not addressed ATM's hypothetical scenarios (and their likely impact on the CTM), as the scenarios are without any factual basis.

ATM suggests in its submission that:

The competitive market cost or price of imported coil or steel, that incurs anti-dumping and/or safeguard duties, used to manufacture HSS for sale on the Thai domestic would include the full applicable rate of duties. A cost of coil that does not include the full applicable rate does not reasonably reflect a competitive market cost.⁴⁶ [emphasis in original]

The Commission's approach to assessing whether something reasonably reflects a competitive market cost (for the purposes of section 43 of the *Customs (International Obligations) Regulation 2015*) is set out in the Manual.⁴⁷ Having regard to that approach, the Commission again notes that Saha Thai's records were kept in accordance with the GAAP in Thailand, is inclusive of all relevant costs, and that the costs allocated in the CTM are reasonable. The Commission has also compared:

- Saha Thai's HRC price paid, unit HRC cost and unit CTM with the same recorded by Thai Premium Pipe and Pacific Pipe; and
- Saha Thai's weighted average monthly HRC purchase prices with the same reported by other exporters of HSS that have been examined in the concurrent review of measures (EPR 529 refers), excluding exporters from China.

The Commission's analysis (at **Confidential Attachment 3**) shows no significant or consistent variations in prices paid or costs reported by Saha Thai when compared to those reported by other exporters. The Commission has therefore found no evidence to suggest that the HRC prices paid or the cost of HRC reported in Saha Thai's records did not include everything that they were required to include, nor that they did not reasonably reflect competitive market costs. For completeness, the Commission also notes that ATM makes reference to US Department of Commerce findings that a particular market situation existed in the Thailand domestic market which resulted in certain upwards adjustments to Saha Thai's normal value.⁴⁸ There have been no claims made or evidence presented to the Commission to support a similar finding in the present inquiry.

ATM claimed that **forex losses** should be described as direct selling expenses for Australian export sales, resulting in an upwards adjustment to the normal value and that forex losses should also be attributed to any HRC purchases made in foreign currency (i.e. not in Thai Baht), which would result in an increased cost of production. Following SEF 532, ATM again asked the Commission to review the inclusion of forex gains and losses in the calculation of Saha Thai's domestic selling, general and administrative (SG&A), claiming that forex is only applicable to export sales of HSS.⁴⁹

⁴⁶ EPR 532, document no. [25](#), page 5 refers.

⁴⁷ The Manual, page 45 refers.

⁴⁸ <https://enforcement.trade.gov/frn/summary/thailand/2018-22237-1.pdf> refers.

⁴⁹ EPR 532, document no. [25](#) refers.

The Commission's practice is to treat relevant forex gains and losses (i.e. not just losses) as SG&A expenses, thus forex gains and losses are included in the CTMS calculation. The Commission can confirm that Saha Thai's relevant forex gains and losses were included in the SG&A calculation in accordance with the Commission's standard practice. The Commission also observes that Saha Thai's forex gains and losses do not exclusively occur on export sales, also occurring on foreign currency purchases of imported HRC. Accordingly, such gains or losses have also been reasonably included in Saha Thai's domestic SG&A calculation as a general expense relating to the domestic sale of HSS. Finally, the Commission's practice is to make normal value adjustments under section 269TAC(8) where such an adjustment is required because forex gains and losses would affect price comparability. As there is no evidence before the Commission that Saha Thai amend export prices in order to hedge against forex gains and losses, the Commission considers that there is no evidence to warrant an adjustment to the normal value and so no adjustment has been made.

ATM also claimed that in converting standard to actual costs, an allocation of the variance based on revenue would not accurately reflect actual costs.⁵⁰ The Commission reviewed the variance between actual and standard costs and is satisfied that variances are allocated based on production costs, rather than revenue, and that the conversion of standard to actual costs is considered reasonable.

ATM also claimed that additional transportation and storage costs would be incurred by Saha Thai when transporting HSS from one production facility to another, and if these transportation costs were allocated across all HSS produced at both facilities, then such costs would be understated in the CTM. ATM also requested the Commission to re-examine the cost of paint with respect to domestic HSS that is identical to Australian HSS to ensure that such costs represent the reasonable cost of paint. The Commission can confirm that Saha Thai's reported CTM by MCC was relevant and complete, with reasonable cost allocations. The Commission considers the CTM, including any paint costs, to be appropriate.

ATM also sought clarification regarding Saha Thai's finance expense. The Commission can confirm that these expenses were included in Saha Thai's domestic SG&A calculation.

ATM also noted that Saha Thai had short term loans with related parties and sought the Commission's advice as to whether these loans reflected competitive market rates.⁵¹ The Commission has reviewed Saha Thai's loans with related and unrelated parties and compared the information in Saha Thai's 2018 financial statement with information supplied by other Thailand exporters. The evidence before the Commission demonstrates that Saha Thai's loans with related parties are at competitive market rates.

ATM also sought the Commission's review in relation to normal value adjustments, relating to exportation costs and credit terms. ATM submitted that the export terms for Saha Thai should be determined at Free on Board (FOB) terms, and queried the costs incurred by Saha Thai for exporting at Free Alongside Ship (FAS) terms. The Commission found that Saha Thai exported the goods to Australia at FAS terms, for which Saha Thai incurred the cost of inland transport and port charges. The export price has been calculated at FAS terms. Direct selling expenses for Australian sales were verified to audited financial statements and no issues were identified. Therefore, the Commission is satisfied that the direct selling expenses for Australian sales at FAS terms are complete and relevant, and that the export adjustments to the normal value (at FAS terms) are appropriate.

⁵⁰ EPR 532, [document no. 16](#) refers.

⁵¹ EPR 532, document no. [25](#) refers.

ATM requested that the Commission review Saha Thai's exports sales data to ensure the correct identification of HSS with a L0 rating, which indicates that the HSS was impact tested and would normally incur a price premium. The Commission was satisfied that Saha Thai exports were classified according to the MCC structure detailed in ADN No. 2019/132 and that the MCC information was accurate. For model matching purposes, the Commission considers that appropriate domestic models have been compared to the models exported to Australia.

ATM also raised the application of domestic credit terms and commissions, requesting that these are properly applied in the normal value calculation. The Commission confirms that the values were verified and correctly applied per the Commission's calculation methodology.

ATM also claimed that credit terms should be recalculated using alternative information for domestic and export sales. ATM provided a HSS quote from an importer as evidence that there are export credit terms applicable to Saha Thai's Australian sales. The Commission examined this evidence and notes that the payment terms offered are the importer's payment terms, not Saha Thai's payment terms. The importer's payment terms to its Australian customer do not represent the payment terms of Saha Thai to its importer customer. Nonetheless, the Commission confirms that the verified payment terms between Saha Thai and its importer customer are correct and where the Commission substituted missing credit term information, the values were based on the verified source documents. The Commission considers that the substituted values reasonably reflect Saha Thai's credit terms for Australian and domestic sales.

6.4.3 Dumping margin

The Commission calculated a dumping margin in respect of the goods exported to Australia by Saha Thai for the inquiry period. The dumping margin is **negative 13.1 per cent**.

6.5 TPP

The Commission conducted an in-country visit to TPP in Thailand to verify the information provided in its REQ. Relying on the information available, the Commissioner is satisfied that TPP is the producer of the goods. A verification report is available on the EPR.⁵²

During the inquiry period, the Commission verified that TPP manufactured HSS in Thailand and knowingly arranged for that HSS to be exported to its Australian customers. The Commission considers that TPP is a principal in the export transaction, as it:

- was named on the commercial invoice as the supplier of HSS from Thailand;
- was named as the consignor on the bill of lading;
- paid and arranged for all relevant exportation charges from the factory to the port of exportation; and
- received payment from its Australian customers of HSS according to the agreed terms.

The Commission also had regard to evidence of TPP's production records, HSS cost data and sales information and found no evidence that:

⁵² EPR 532, [document no. 14](#) refers.

- there was any consideration payable for or in respect of the goods other than their price;
- the price appeared to be influenced by a commercial or other relationship between the buyer and the seller; nor
- that any reimbursement or compensation subsequent to the sale was payable in respect of the whole or any part of the price.

The Commission has therefore concluded that TPP is the exporter of the goods and its domestic and export sales of HSS were arm's length transactions.

6.5.1 Export price

In respect of all Australian sales of the goods made by TPP during the inquiry period, the Commission has considered the following factors to determine whether exports from TPP were arms length transactions.

The Commissioner is satisfied that there was no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The export price for TPP was therefore calculated under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.5.2 Normal value

The Commissioner is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were within the OCOT for all HSS within the MCCs that were exported to Australia. The Commissioner is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Export packaging	Add an amount for export packaging
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges

Table 10: Adjustments for TPP normal values

Submissions

ATM submitted a number of claims relating to the dumping margin calculation for TPP.⁵³

ATM sought clarification that the thickness of the goods was accurately recorded for Australian export sales and subsequently, domestic sales. ATM noted that two export transaction lines were excluded from the calculation of TPP's export sales listing, being RHS with nominal thickness less than 1.6 mm. ATM queried the exclusion, noting that it is possible that HSS with a nominal thickness of 1.6 mm may have an actual thickness of as little as 1.44 mm. ATM requested the Commission review the HSS nominal thickness presented in TPP's export and domestic sales data.

The Commission reviewed TPP's export and domestic sales data and confirmed that TPP provided nominal thickness in both its export sales and domestic sales listings. The Commission also reviewed the excluded export transactions and confirms that the nominal thickness of these RHS goods was less than 1.6 mm. ATM also expressed concern that there may be a possible underpayment of duties if imports of TPP's HSS were entered at actual thickness, rather than nominal thickness, however this is outside of the scope of this inquiry.

ATM sought clarification regarding the basis of the calculation for TPP's normal value in the inquiry period, requesting the CTM and direct selling expenses be reviewed by the Commission. ATM claimed that a single CTM (regardless of destination market) is inappropriate as it does not adequately address the additional cost of import duties incurred on imported HRC used by TPP in the production of HSS. ATM claims that TPP can claim a rebate on the import duties if the HSS manufactured from the imported coil was subsequently exported.

The Commission confirms that TPP does not undertake costing on the basis of market, due to the similarity of products sold domestically and for export. In addition, TPP does not differentiate HRC feed according to market, as it uses the same type of steel to produce the relevant HSS product, regardless of destination market. Therefore the Commission considers that TPP's costs were not unreasonable in being presented as a single CTM. In relation to ATM's claim that HRC import duties should be allocated to domestic production and not export production, the Commission notes that TPP did not claim a downwards adjustment to the normal value in relation to import duty differentials, such as a duty drawback, and the Commission can confirm that the CTM is complete and inclusive of all relevant import duties.

ATM also claimed that forex losses should be described as direct selling expenses for Australian export sales, resulting in an upwards adjustment to the normal value and that forex losses should also be attributed to any HRC purchases made in foreign currency (i.e. not in Thai Baht), which would result in an increased cost of production. For similar reasons as were discussed in relation to Saha Thai, the Commission can confirm that TPP's forex gains and losses were included in the SG&A calculation in accordance with the Commission's standard practice and no normal value adjustment has been made.

⁵³ EPR 532, [document no. 18](#) refers.

ATM also sought the Commission's review in relation to normal value adjustments, relating to exportation costs, credit terms and commissions. The Commission reviewed TPP's reported port charges in relation to all Australian sales, and confirms that these verified costs are included as an adjustment to the normal value at FOB terms, in order to be comparable with the export price calculated at FOB terms for all Australian sales. No adjustments to the normal value for ocean freight costs was necessary.

ATM also queried whether export containerisation costs and direct selling expenses for Australian sales were verified. The Commission re-examined the direct selling expenses for Australian exports of HSS from TPP and is satisfied that these direct selling expenses are complete and relevant, and that the export packaging adjustments were applied to the normal value.

ATM also raised the application of domestic credit terms and commissions, requesting that these are properly applied in the normal value calculation. The Commission confirms that the values were verified and correctly applied per the Commission's calculation methodology.

ATM also identified that export credit terms were not listed as an adjustment and queried whether such terms should be included in the normal value calculation. ATM provided a HSS quote from an importer as evidence that there are export credit terms applicable to TPP's Australian sales. The Commission examined this evidence and notes that the payment terms offered are the importer's payment terms, not TPP's payment terms. The importer's payment terms to its Australian customer do not represent the payment terms of TPP to its importer customer. Nonetheless, the Commission confirms that the verified payment terms between TPP and its importer customer are correct and that an export credit term adjustment is not warranted.

6.5.3 Dumping margin

The Commission calculated a dumping margin in respect of the goods exported to Australia by TPP for the inquiry period. The dumping margin is **negative 4.5 per cent**.

6.6 Uncooperative and all other exporters

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be calculated under section 269TAB(3) and normal values are to be calculated under section 269TAC(6).

The Commission has determined the export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information. Specifically, the Commission has used the lowest weighted average export price from cooperative exporters in Thailand.

The Commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6), having regard to all relevant information. Specifically, the Commission has used the highest weighted average normal value from cooperative exporters in Thailand.

The dumping margin for uncooperative and all other exporters in Thailand is **negative 4.3 per cent**.

6.7 Non-injurious price (NIP)

Where the Minister is required to determine interim dumping duty, and the NIP of the goods is less than the normal value of the goods, the Minister must have regard to the desirability of using a lesser amount of duty, known as the 'lesser duty rule' in accordance with section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), unless one of the following exceptions in section 8(5BAA) of the Dumping Duty Act applies:

- (a) where the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii);
- (b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

The Commission finds that neither of these exceptions apply in the context of this inquiry and as a result the Minister must have regard to the desirability of applying the lesser duty rule, subject to the determination of whether the NIP is the operative measure.

6.7.1 Establishing a NIP

Under sections 269TACA(a) and 269TACA(b), the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, or to remove the hindrance to the Australian industry caused by the dumping of the goods.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to a comparable level of trade in Australia. The deductions include overseas freight, insurance, into-store costs, profit and amounts for importer selling expenses. In this inquiry, the deductions were identified from verified importer data.

6.7.2 The unsuppressed selling price

The Manual provides that the Commission will normally use the following approaches, in order of preference, for establishing an USP, subject to the facts of the case:

- the price or market approach of the Australian industry in a period unaffected by dumping;
- the constructed approach, using the Australian industry's CTMS data and a reasonable amount for profit; or
- the price or market approach of undumped imports.⁵⁴

Orrcon submitted that it considered the approach taken in REP 419 remains the most appropriate method to establish a USP in this inquiry.⁵⁵ Orrcon noted that in REP 419, the Commission calculated a CTMS for that review period, plus an amount for profit that was achieved by the Australian industry in the period January to September 2008.

⁵⁴ The Manual, pp. 137-140 refer.

⁵⁵ EPR 529, document no. [5](#) refers. Orrcon made this submission in relation to Review 529 which also includes Thailand as a subject country.

Commission's approach

The preliminary dumping margins calculated in the review of measures (EPR 529, verification reports refer) indicates that HSS from countries other than Thailand was exported at dumped prices during the inquiry period. The Commission therefore considers that the inquiry period is not a period unaffected by dumping.

As a result, the Commission has established a USP using the constructed approach having regard to:

- the weighted average CTMS for the Australian industry in the inquiry period; and
- a reasonable amount for profit.

The Commission notes that the Australian industry was unprofitable in the inquiry period and has thus sought to construct a profit amount. The Commission considers that the amount of profit achieved in the period January to September 2008 is from a period too far removed from the current review period and does not take into account the significant changes that have occurred in the Australian industry or the Australian market since that time.

The Commission has therefore had regard to the methods detailed in the Manual for calculating a reasonable amount for profit.⁵⁶ The Commission considers that the option to use appropriate profit surveys provides the most relevant method to estimate profit for the Australian industry. The Commission has used the Australian industry's price lists and target revenue figures (identified from management and business reports) as a proxy profit survey, as these figures take into account market and industry conditions in the inquiry period.

In response to SEF 532, Orrcon requested that the Commission ensure that the basis of the USP calculation in SEF 532, being price lists and target revenues for the inquiry period, were established in a period unaffected by dumping.⁵⁷ ATM submitted that, in using the constructed approach for the USP, the Commission ought to consider the level of profit achievable in the absence of dumping in a capital-intensive industry (such as the steel industry) is likely to be greater than six per cent.⁵⁸

Whilst the Commission considers that the basis of the USP is in a period where (preliminary) dumping from countries subject to the concurrent review of measures (case 529) has occurred, the Commission is satisfied that the price lists and target revenues were set at the start of the financial year to achieve the corporate and financial goals of the Australian industry members, having regard to a desired profitability, and return on investment, research and development expenditure, capital works etc. The Commission understands that these goals are not set by reference to the prices that were subsequently achieved in the market, and which were affected by (preliminary) dumping as a result of negotiating prices with reference to dumped and undumped prices. In any event, the Commission confirms that the amount of profit used in the calculation of the USP is greater than the six per cent sought by ATM.

⁵⁶ The Manual, p.139 refers.

⁵⁷ EPR 532, [document no. 26](#) refers.

⁵⁸ EPR 532, [document no. 29](#) refers. ATM cites the European Commission's profit methodology for its USP calculations.

The Commission calculated a quarterly CTMS for black and galvanised HSS during the inquiry period. A reasonable amount for profit was then calculated by examining the target revenue sought by the Australian industry for black and galvanised HSS. The Commission then adjusted this target revenue to take into account standard business practices such as rebates and discounts (early-settlement discounts, volume rebates etc.) that decreased the amount of revenue and profit achieved by the Australian industry. A single weighted average profit margin for the Australian industry for the inquiry period was then calculated.

The Commission's calculation of the USP and NIP is at **Confidential Attachment 4**.

The Commission notes that the amount of profit used in the USP calculation for this inquiry is less than the amount of profit used in REP 419 and sought by Orrcon in its submission. However, the Commission notes that, were the variable factors to be altered based on the findings in this report, the normal values would be the operative measure.

6.8 Conclusion

The Commission has summarised the dumping margins pertaining to the exporters from Thailand in Table 11.

Exporter	Dumping margin
Pacific Pipe Public Company Limited	Negative 4.3%
Saha Thai Steel Pipe Public Company Limited	Negative 13.1%
Thai Premium Pipe Co., Ltd	Negative 4.5%
Uncooperative and all other exporters	Negative 4.3%

Table 11: Summary of dumping margins

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Finding

On the basis of the evidence obtained in the course of this inquiry, the Commissioner is not satisfied that the expiration of the anti-dumping measure applying to HSS exported to Australia from Thailand would lead, or would be likely to lead, to a continuation of, or recurrence of dumping that the anti-measures is intended to prevent

The Commissioner is also not satisfied that the expiration of the anti-dumping measure would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measure is intended to prevent.

7.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measure unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the Anti-Dumping Review Panel, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.⁵⁹

The Commission's detailed analysis can be found in **Confidential Attachment 5**.

7.3 Australian industry claims

The Australian industry has made the following claims regarding the continuation or recurrence of injury of HSS exported to Australia from Thailand:

- HSS exported from Thailand has remained a presence in the Australian market, and has had an influence on price competition in the Australian market;
- an anticipated reduction in demand for HSS from the housing and construction sector would also result in a decline in the size of the Australian HSS market, and that the dumping of HSS from Thailand in these circumstances would result in increased competition between all suppliers in the smaller market and cause injury to the Australian industry producing like goods;
- global oversupply in steel markets (particularly originating from China) means that displaced export volumes from Thailand will increasingly be diverted to open markets, making Australia an attractive destination for excess HSS;
- Australia will become an attractive market for exports of HSS from Thailand due to an increase in exports of HSS to Thailand from China resulting in lower domestic sales in Thailand; and

⁵⁹ ADRP Report No. [44](#) (Clear float glass) refers.

- future exports of HSS at dumped prices would result in a recurrence of price undercutting, causing price depression and price suppression, and reduced profits and profitability.

The Australian industry therefore claims that it is reasonable to expect that the expiration of the current measures would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measure is intended to prevent.

7.4 Will dumping and material injury continue or recur?

In assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors are relevant, as outlined in the Manual.⁶⁰ The Commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance.

The following analysis therefore examines a range of factors which the Commission considers are relevant to assess whether the continuation or recurrence of dumping is likely, and the likelihood of the continuation or recurrence of injury in the absence of the measures.

7.4.1 Dumping during the inquiry period

As noted in Chapter 6, the Commission has found that all HSS exported from Thailand to Australia has been at undumped prices during the inquiry period and therefore the dumping found in REP 254 has not continued. ATM considers that the negative dumping margins in the inquiry demonstrate the effectiveness of the current measures.⁶¹ The Commission notes that the active exporters of the goods from Thailand, Saha Thai and TPP, were subject to a floor price and an *ad valorem* duty rate of 0.7 per cent, respectively, during the inquiry period.

7.4.2 Patterns of trade and maintenance of distribution links

The Commission observes that anti-dumping measures were imposed on exports of HSS exported to Australia from China, Korea, Malaysia and Taiwan as a result of *International Trade Remedies Branch Report No. 177* (REP 177) on 3 July 2012, and were continued as a result of *Anti-Dumping Commission Report No. 379* for a further five years in 2017. The Commission notes that the investigation in REP 177 was terminated in respect of exports of HSS to Australia from Thailand on 6 June 2012. As a result of REP 254, anti-dumping measures were imposed on exports of HSS to Australia from Thailand on 19 August 2015.

Figure 12 examines import volumes of HSS to Australia from 1 October 2010 to 30 September 2019:

⁶⁰ The Manual, pp. 175-176 refer.

⁶¹ EPR 532, [document no. 27](#) refers.

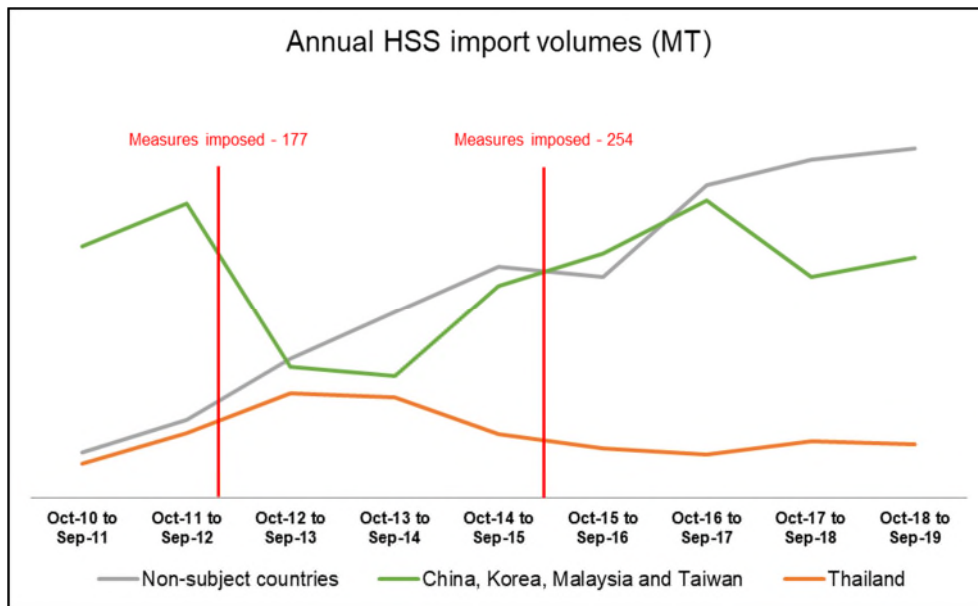


Figure 12: Import volumes of HSS to Australia by source

Figure 12 demonstrates that, following the imposition of measures after REP 177 for China, Korea, Malaysia and Taiwan, the growing overall volume of imports has been largely consistent with the growth in the overall Australian market for HSS (Figure 4 refers). Figure 12 also shows that there was a change in supply from the countries that became subject to measures (i.e. China, Korea, Malaysia and Taiwan, and then after REP 254, Thailand) to countries that were not subject to measures as each of those measures was imposed. By the end of the period examined, however, the volume of HSS from the first group of subject countries (i.e. China, Korea, Malaysia and Taiwan) and then from Thailand has largely returned to pre-measures levels. The biggest increase in HSS imports, in terms of both volume and share (as shown in Figure 7 and Figure 12), has been from countries not subject to measures.

Figure 12 also shows that, apart from an increase in the YE September 2013 and 2014 that followed the imposition of measures as a result of REP 177, the volume of exports of HSS to Australia from Thailand have remained essentially flat. Exports of HSS to Australia from Thailand has made up less than 5 per cent of the Australian HSS market during the inquiry period.

The Commission has compared ABF data for importers of the goods in the inquiry period with ABF data from REP 254 and REP 445. The Commission has found that the number of major importers of HSS from Thailand has decreased between the original investigation and the inquiry period, but that the import volume has remained relatively stable. This is an indication that exporters from Thailand have maintained stable distribution links in Australia, but also as these links have consolidated, that there has not been any substantial changes with respect to supply and Australian demand for HSS from Thailand as a result of the imposition of the measures. Saha Thai claimed that it has exclusively supplied one Australian customer, with no evidence of a strategy to expand its export volumes to Australia.⁶² The Commission considers Saha Thai's claim to be supported by the available evidence.

⁶² EPR 532, [document no. 17](#) refers.

ATM is of the view that the reduction in the number of Thailand exporters since REP 254 is also indicative of the effectiveness of the measures.⁶³ ATM considers that the revocation of the measures will induce exporters who exited the market to re-enter at dumped prices because this is the only point at which they can be competitive. ATM also considers that the measures have constrained the dumping behaviour of Thailand exporters and accordingly, the volume injury experienced is reduced as the total volume of HSS exported to Australia from Thailand has reduced.

The Commission examined the continuity of Thai exporters and has found that the cooperating exporters have remained the dominant Thai exporters in the Australian market since REP 254 and REP 445. Figure 13 demonstrates that the share of Thai exporters who have exited the Australian market (or are uncooperative exporters) has been less than ten per cent of total Thai exports since 2013.

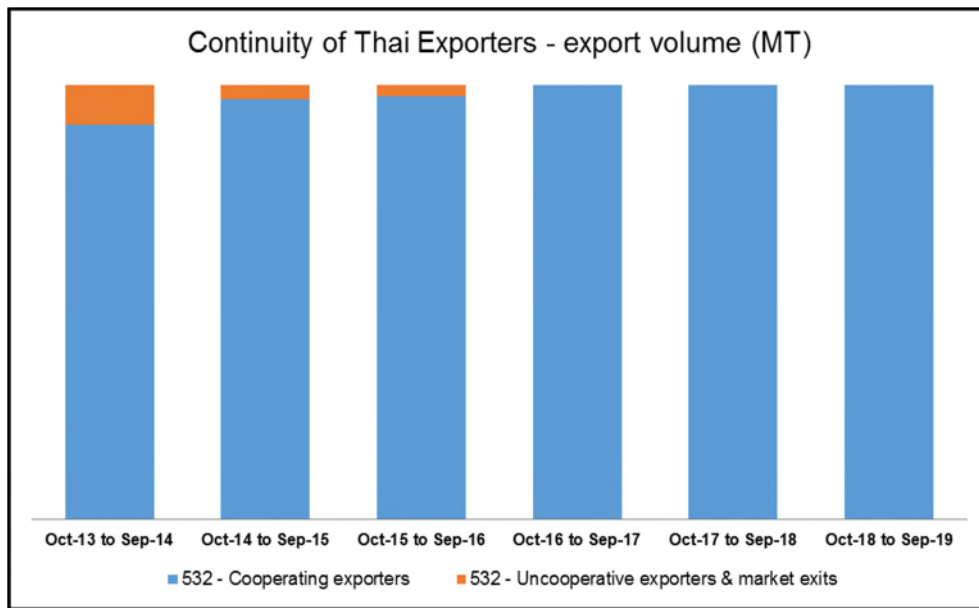


Figure 13: Continuity of Thai exporters by share of exports

Whilst the Commission acknowledges ATM's point that the measures may have eliminated certain Thai exporters from the Australian market, the Commission also considers that the volumes from these exporters has been low throughout the period examined, irrespective of the measures. The Commission considers that, in the absence of the dumping measures, it is possible that these exited exporters may seek to re-enter the Australian market. However, there is no evidence which indicates that it is *likely* that these exited exporters will recommence exporting at dumped prices, nor that their return to the Australian market would be likely to have a material impact, such as an injurious decline of the market share of the Australian industry.

7.4.3 Impact of trade remedies in the United States of America

The Australian industry has claimed that, the United States of America (USA) investigation under Section 232 of the *Trade Expansion Act of 1962* and the imposition of import tariffs on aluminium and steel in 2018 (section 232 trade remedies), would affect HSS exported from Thailand.⁶⁴

⁶³ EPR 532, [document no. 27](#) refers.

⁶⁴ EPR 532, document no. [2](#) refers.

The Australian industry considered that HSS exporters from Thailand would have excess capacity as a result of the section 232 trade remedies and seek alternate exports markets, such that HSS normally exported to the USA would be diverted to Australia.

To assess this claim, the Commission has examined the export activity of welded pipe and tube from Thailand prior to and following the imposition of the measures. In SEF 532, the Commission performed this analysis by reference to Harmonised System (HS) Code 7306 - tubes, pipes and hollow profiles.⁶⁵ The Commission stated:

Although welded pipe and tube is a broader category than just HSS, the volumes of HSS actually exported and the volume of “welded pipe and tube” exported to Australia from Thailand are sufficiently similar to enable the Commission to consider this category of goods to be a relevant proxy for HSS generally.⁶⁶

ATM⁶⁷ and Orrcon⁶⁸ both considered that the Commission’s use of the HS code at four-digit level in SEF 532 was too broad, and that a more detailed examination at the six-digit level was warranted (which has the effect of excluding line pipe and stainless steel pipe and tube). Both Australian industry members provided graphical representations of their analysis, with Orrcon providing a table of the data used (as part of confidential submissions).

In response to the Australian industry’s submissions, the Commission compiled trade data from the Government of Thailand (GOT) Ministry of Commerce “Trade Report” system⁶⁹ and examined HS data at the six to eleven digit level to identify the goods under consideration where possible. The Commission notes that for RHS goods in subcategory 7306.61, for example, the GOT Ministry of Commerce records HSS subcategories with thickness between 1.2 and 2.0 mm. Whilst the Commission acknowledges these subcategories will capture some goods which lie outside of the goods description, access to more detailed information was not available.

The Commission observes from its analysis that Thailand’s two largest export markets for HSS are the USA and Australia. These markets represent 24 per cent and 27 per cent, respectively, by volume in 2019, as shown in Figure 14. In 2019, Australia became Thailand’s largest destination market for HSS.

⁶⁵ International Trade Statistics [website](#) refers. Accessed 24 April 2020. Data compiled from the Customs Department of the Kingdom of Thailand.

⁶⁶ EPR 532, [document no. 24](#) refers.

⁶⁷ EPR 532, [document no. 27](#) refers.

⁶⁸ EPR 532, [document no. 28](#) refers.

⁶⁹ GOT Ministry of Commerce Trade Report at <http://tradereport.moc.go.th/TradeEng.aspx> refers.

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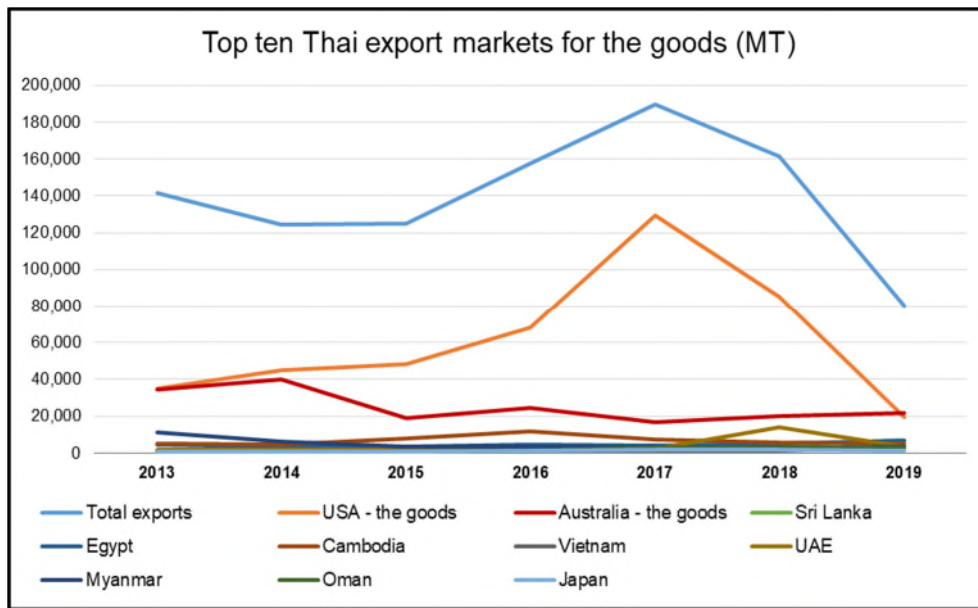


Figure 14: Top ten export markets for HSS from Thailand (MT)

Source: GOT Ministry of Commerce⁷⁰

Since the imposition of the USA's section 232 trade remedies in 2018, Thailand's exports to the USA markedly declined after a peak in 2017. Orrcon claims that the decline of exports from Thailand to the USA will create a situation where the displaced volume of HSS will enter Australia and that the sudden increase of exports to the USA prior to 2017 demonstrates an ability for Thai exporters to export large HSS volumes over a short time frame.⁷¹

The Commission observes from Figure 14 that there was not a corresponding influx of imports of HSS from Thailand into the Australian market resulting from the USA action. The Commission notes that, at this time, Thai exporters were presented with an opportunity to export more volumes to Australia, as the period coincided with a growing Australian HSS market overall (as shown in Figure 4) and when Thai exporters were subject to comparatively favourable anti-dumping measures *vis-a-vis* other subject countries, at least since the end of June 2018 (per Tables 2 and 3). Whilst both Orrcon and ATM consider that the USA section 232 measures have had, and will have, an impact on the Australian market with respect to HSS exported from Thailand, the Commission does not consider the available evidence supports the proposition that an increase in HSS from Thailand has occurred, nor that one is likely to occur, as a result of the 232 trade remedies in the absence of the anti-dumping measures. Further, as explained below, the balance of the evidence in this chapter does not support a conclusion that even if the volume of HSS exports from Thailand increased, such exports are unlikely to be at dumped prices.

⁷⁰ GOT Ministry of Commerce Trade Report at <http://tradereport.moc.go.th/TradeEng.aspx> refers.

⁷¹ EPR 532, [document no. 28](#) refers.

7.4.4 Thailand domestic market for HSS

The Commission has also examined imports of HSS into Thailand. Figure 15 indicates that HSS from China has had a comparatively lesser presence in the Thailand domestic market since 2016, with HSS from the Socialist Republic of Vietnam the largest source of imports between 2017 and 2019. The Commission also observes that the total imports of HSS into Thailand in 2019 have returned to the lower 2017 volumes.

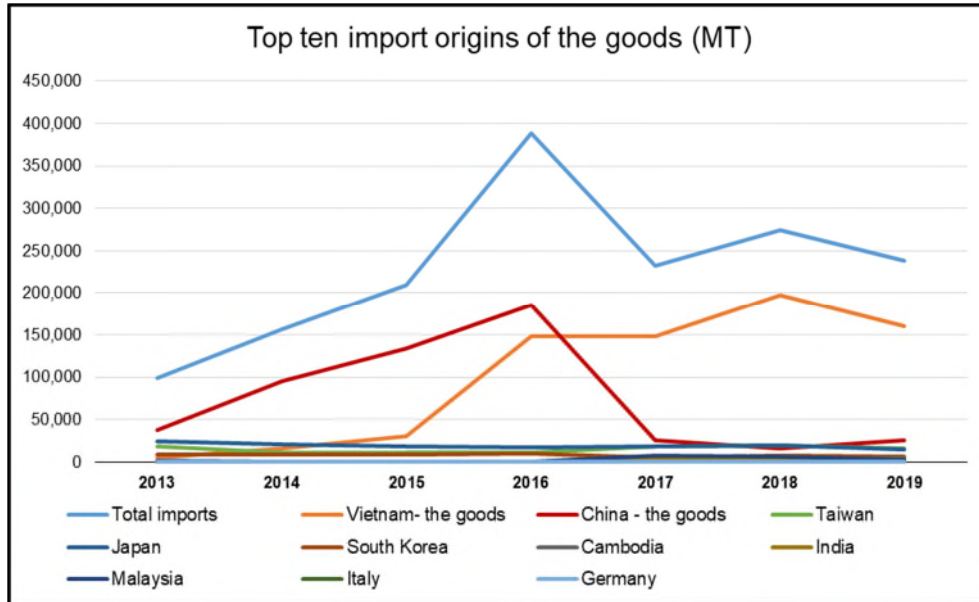


Figure 15: Top ten sources of imported HSS entering Thailand (MT)

Source: GOT Ministry of Commerce⁷²

ATM suggests that an examination of Thailand's HSS balance of trade demonstrates the impact of USA section 232 trade measures and the flow-on effects to Australia, as well as the impact of dumped HSS from China and Vietnam on the Thai domestic HSS market.⁷³

The Commission has graphed Thailand's total exports and imports of HSS since 2013 as well as the balance of trade as suggested by ATM. As Figure 14, Figure 15 and Figure 16 show, Thailand has been a net importer of HSS since 2014.

⁷² GOT Ministry of Commerce Trade Report at <http://tradereport.moc.go.th/TradeEng.aspx> refers.

⁷³ EPR 532, [document no. 27](#) refers.

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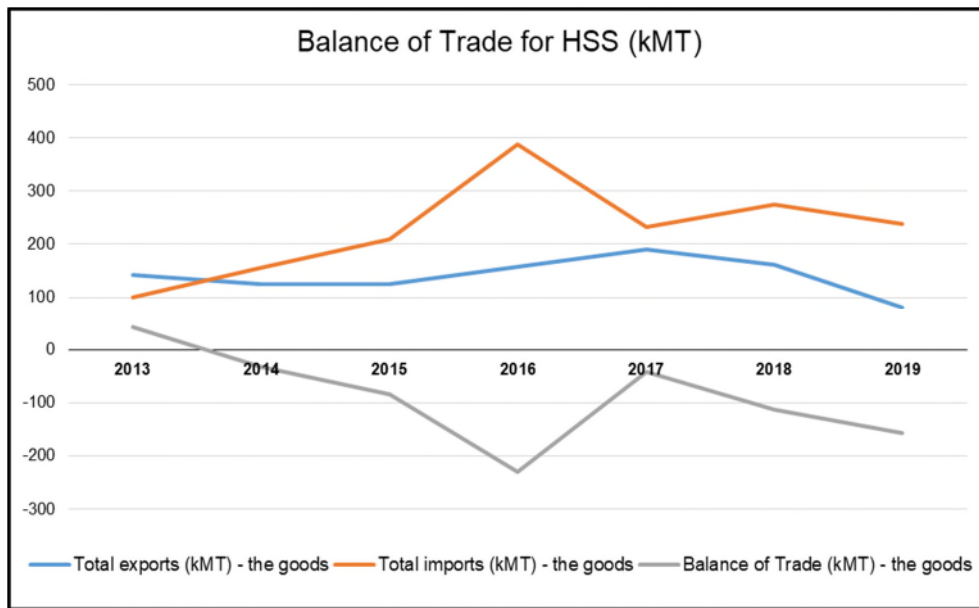


Figure 16: Thailand's total imports and exports for HSS (MT)

From 2013, Chinese imports of HSS were dominant in the Thai domestic market until the Thai anti-dumping authority imposed provisional anti-dumping measures on HSS imports from China in 2016, with definitive measures imposed in 2017. ATM claims that the Chinese imports in the Thai domestic market in this period coincide with the increase of HSS exports to the USA and Australia. For ATM, the challenges faced by Thai HSS producers in their home market promotes the dumping of HSS to Australia.⁷⁴ ATM considers that the findings of dumping and material injury in REP 254 (with the original investigation period 1 July 2013 to 30 June 2014) to be compelling evidence of the response to domestic market challenges causing dumping as well as increased export volumes to Australia.

ATM further submits that the increase in Vietnamese imports in the Thai domestic market from 2016 posed a secondary wave of import challenges to Thai producers. According to ATM, their response was to export more volumes to the USA, noting that in ATM's view, this did not occur for Australia because the exporters were constrained by the measures imposed in REP 254 and as subsequently altered after REP 445. ATM⁷⁵ and Orrcon fear that the ongoing challenges faced by Thai producers in their home market, being import competition and the USA section 232 measures, will result in a repeat of the dumping and material injury experienced in the original investigation period.

The Commission observes from Figure 17 that ATM's assessment of the historical challenges faced by Thai exporters in the Thai HSS market appears to be an accurate summation of events. However, ATM and Orrcon have provided no positive evidence which explains how the section 232 measures and the imports of HSS in the Thai domestic market will affect the volume of HSS exported to Australia from Thailand and why an increase in export volume is likely if the measures are discontinued.

⁷⁴ EPR 532, [document no. 27](#) refers.

⁷⁵ EPR 532, [document no. 22](#) refers.

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The Commission notes that Thai exporters have already been presented with the conditions described by ATM and Orrcon to increase export volumes to Australia and have not done so, despite the major Thai exporters having maintained their distribution links into an open Australian market, in which Thai exporters already enjoy comparatively advantageous anti-dumping measures, and at prices which are lower than the Australian industry (see section 7.4.7) and which are undumped.

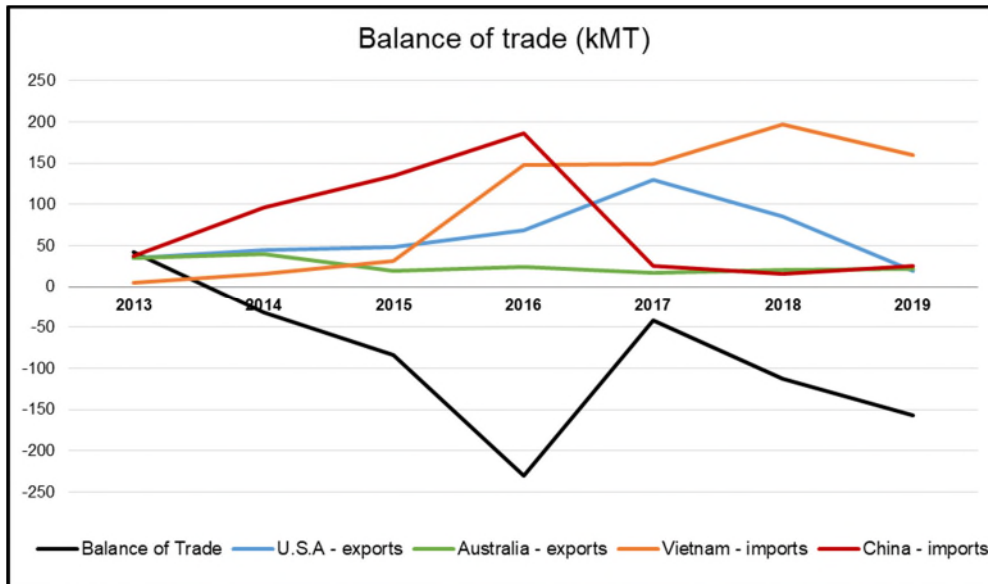


Figure 17: Balance of Trade and major importers and exporters of HSS (kMT)

Thailand's overall economic performance in the period since 2010 has seen consistent annual growth in its gross domestic product (GDP). The Commission understands that the GOT has been investing in large infrastructure and development projects, such as the Eastern Economic Corridor and major rail projects linking airports as part of its public investment-led stimulus packaging in 2019.⁷⁶

Although not a perfect measure, it appears likely that the period of economic growth since 2014 has contributed to the high level of demand observed for HSS products in Thailand.

⁷⁶ World Bank's [website](#) refers. *Thailand Economic Monitor* (January 2020) considered.

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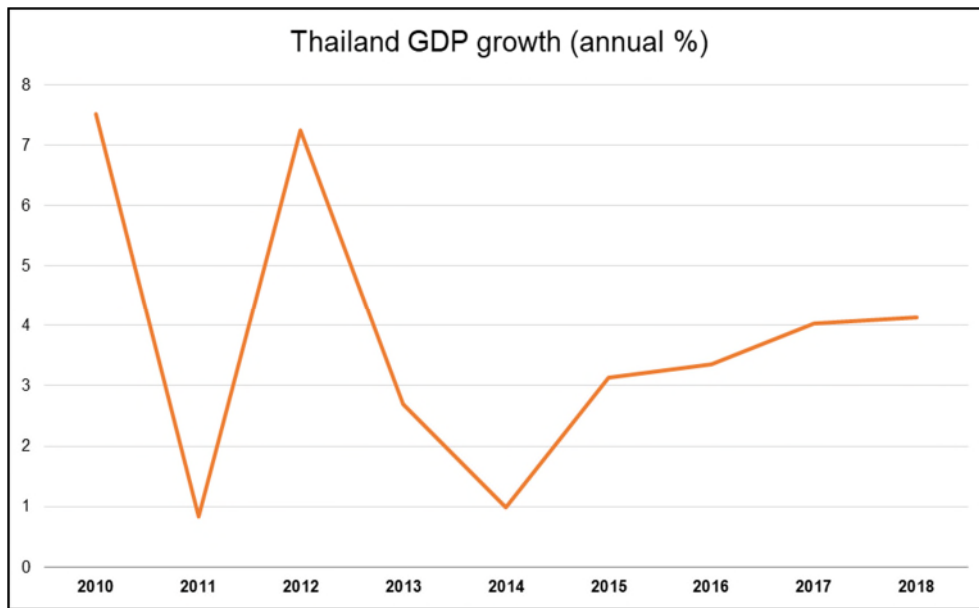


Figure 18: Thailand annual GDP growth (%)

Source: World Bank⁷⁷

The Commission is not satisfied that the evidence before it shows that conditions in the domestic market in Thailand provide an incentive to producers to export HSS unless it would be profitable to do so.

Thailand is not immune to the economic impact of the COVID-19 pandemic. Deloitte identifies that Thailand's steel industry is one of its most affected domestic industries, in part due to supply chain disruptions as a result of factory and transport closures, as well as disruption to imports of intermediate goods and capital equipment from its trading partners also affected by the pandemic.⁷⁸ Figure 19 shows Thailand's projected GDP growth before and during the COVID-19 pandemic.

⁷⁷ World Bank's [website](#) refers. Data tables for Thailand accessed 4 May 2020.

⁷⁸ Deloitte's [website](#) refers. Article "Respond, Recover, Thrive – The impact of COVID-19 on the economy, A view from Thailand" considered.

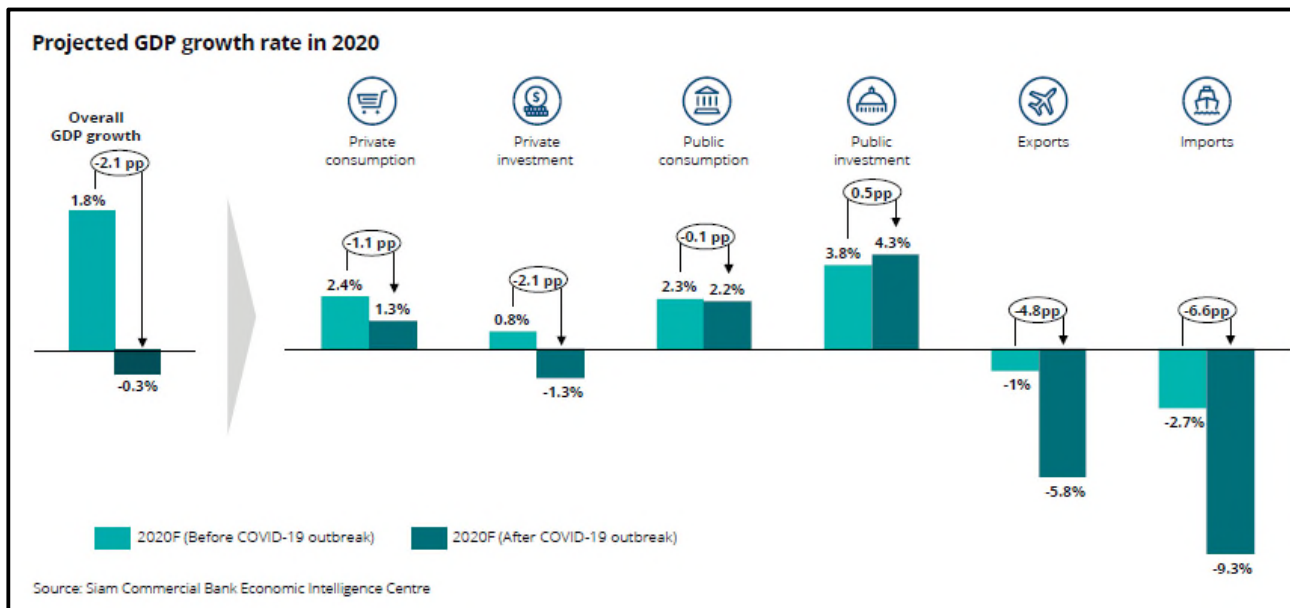


Figure 19: Projected GDP growth rates in 2020

Source: Deloitte⁷⁹

As can be observed, the contribution of imports and exports to Thailand's GDP are projected to decline significantly, however public investment contribution is expected to increase. The Commission considers that it likely the GOT will use investment in infrastructure and development projects to stabilise and lift the Thai economy. In the face of uncertainty with import supply, the Commission is of the view the GOT will attempt to keep these public investment projects in its recovery pipeline as part of its broader COVID-19 economic recovery, and as such will require a key role from domestic producers and consumers of HSS.

The Southeast Asian Iron and Steel Institute (SEAISI) noted that Thailand has had no mandatory construction lockdowns and some projects have continued.⁸⁰ SEAISI appears to express more concern for China's increase in steel inventories during the pandemic that have the potential to flood other Association of Southeast Asian Nations member countries and other nations.

ATM agrees with the Commission's assessment that the GOT is likely to increase public investment in infrastructure to counter the impact of COVID-19.⁸¹ However, ATM is critical that no assessment was performed by the Commission as to whether the GOT's public investment will be large enough to compensate for the reduction in private investment in infrastructure. ATM raises a number of possible scenarios that may impact the Thai construction industry and the Thailand economy more broadly, such as a decline in tourism revenue affecting the government revenues available to fund any stimulus packages.

⁷⁹ Ibid.

⁸⁰ SEAISI's [website](#) refers. Accessed 24 April 2020.

⁸¹ EPR 532, [document no. 27](#) refers.

ATM and Orrcon both believe that dumping of HSS from Thailand will recommence if the measures expire given that, in ATM's view⁸², the market conditions affecting Thailand are forecast to be even more dire than previously anticipated. ATM notes the commentary from SEISI regarding China's steel production and its export VAT rebate amendments as making it more attractive for Chinese producers of HSS to export to Southeast Asian nations, including Thailand.

The Commission is not in a position to comment on the likely effectiveness of GOT market interventions to counter the impact of COVID-19, nor the GOT's ability to fund stimulus measures as a result of impacts elsewhere in the Thailand economy. The Commission is also not in a position to comment on the relative attractiveness of Thailand as a destination for Chinese HSS, nor the likely effectiveness of Thailand anti-dumping measures on Chinese exporters of HSS. Accordingly, the Commission is also unable to comment on the likely impact that such GOT interventions or exports of HSS from China to Thailand would have on the likelihood that HSS would be exported from Thailand to Australia at dumped prices in the absence of the anti-dumping measures.

7.4.5 Capacity to supply the Australian market

The Commission has analysed the spare capacity available for each of the cooperating exporters in Thailand and found that the total available capacity in the inquiry period of all three exporters was approximately 20 per cent of the overall Australian market. The Commission notes that sales to Australia made up a minority of all sales by each exporter.

The Commission also notes that, for the cooperating exporters that exported the goods to Australia during the inquiry period, their sales of HSS to both the Thailand and Australian markets were profitable.

7.4.6 Value of exported goods

The Commission has analysed the value of HSS exported to Australia from Thailand immediately prior to and following the imposition of measures and compared this with the value of HSS exported to Australia from all other countries.

The Commission has established that, immediately following the imposition of the measures on Thailand, the FOB export price of HSS from Thailand to Australia fell significantly. The Commission notes that this drop in prices was in line with declines in FOB export prices of HSS from other countries that occurred at the same time. Prices of HSS exported to Australia from Thailand recovered the following year.

The Commission observes that the FOB export price of HSS from Thailand is the lowest of all countries subject to measures and one of the lowest from all countries, which has consistently been the case since the year commencing 1 October 2011. The Commission also notes that, in the inquiry period, this has occurred in the absence of dumping.

7.4.7 Impact of measures on prices

The Manual provides that the inquiry may gather facts relevant to prices of exports compared to the NIP, and the relevance of the measures to selling prices.⁸³ The NIP relevant to exporters of HSS was calculated for the inquiry period.

⁸² Ibid.

⁸³ For more detailed analysis of the NIP, Chapter 6 of this report refers.

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Due to limitations in the continuity of the Australian market data available between REP 254 and the inquiry period, the Commission has taken the following approach to comparing prices in the Australian market. The Commission has compared the quarterly weighted average for each of:

- the verified Australian sales of importers of HSS from Thailand. Where this sales information was not provided, the FOB export price plus post exportation and selling expenses from the relevant importer; and
- the Australian industry's selling prices, consisting of data from ATM and Orrcon.

The Commission has estimated an Ex Works (EXW) equivalent price for HSS in Australia. Only those MCCs that were exported by cooperating Thai exporters in the inquiry period has been included in the analysis, to ensure a like-for-like comparison of models and prices. The Commission's calculations are included at **Confidential Attachment 5**, and the result of the analysis can be seen in Figure 20.

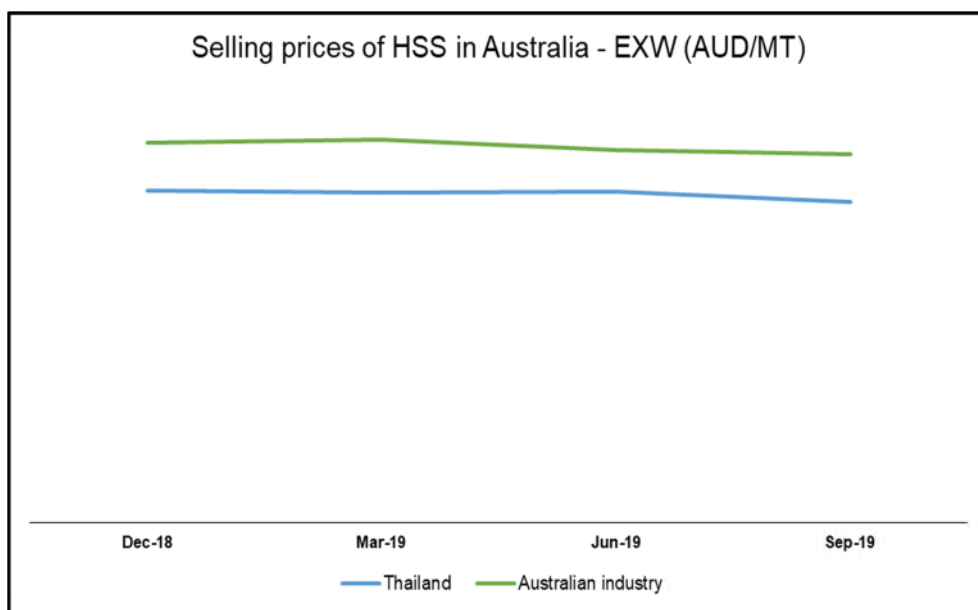


Figure 20: Comparison of MCCs at EXW terms in Australian market by origin

The Commission observes that, in this analysis, the weighted average selling prices of HSS from Thailand are lower than the same HSS models offered by the Australian industry. This analysis indicates that, in a period where the goods were exported at undumped prices, HSS from Thailand had a significant price advantage over the Australian industry's HSS in the market. For completeness, the Commission also notes that the weighted average selling prices of HSS from Thailand was also lower than the same HSS models offered in the Australian market by importers of HSS from China, Korea and Taiwan (noting there were no Malaysian imports in the inquiry period), based on the information gathered in the concurrent review of measures (case 529).

ATM submitted that any price advantage that Thai exporters have in the Australian market is the result of their predominant exports of black HSS, whereas the Australian industry and other exporters sell a mix of both black and galvanised.⁸⁴ ATM considers that a proper price comparison can't be undertaken if galvanised HSS is included in the other comparative prices because galvanised HSS commands a higher price in the market.

⁸⁴ EPR 532, document no. [29](#) refers.

The Commission notes that galvanised HSS was exported by TPP in the inquiry period. To clarify, in TPP's verification report, the MCC subcategory 'Galvanised' was denoted with a "P" instead of a "G".⁸⁵ The relevant MCCs that were included in the analysis shown in **Error! Reference source not found.** are the MCCs that were exported by Saha Thai and TPP:

- P-N-N-R-350 –
- P-N-O-R-350 –
- P-N-O-C-350 –
- P-N-P-C-350 –
- P-N-P-R-350 –
- P-G-N-R-350 – *denoted as P-P-N-R-350-P in TPP's verification report*

The Commission excluded P-G-N-R-350 from the price analysis for sales of HSS from China, Korea and Taiwan as the volume sold represented approximately 45 per cent of the total volume of the MCCs listed above and would unduly weight the calculation towards galvanised HSS. However, P-G-N-R-350 – is included in the sales of HSS exported from Thailand and in the domestic sales of the Australian industry, as the volumes were immaterial in both instances. Accordingly, the Commission observes that the price advantage in the Australian market experienced by exports from Thailand (as shown in Figure 20) is not a result of comparing galvanised HSS with black HSS prices.

ATM suggests that the cooperating Thai exporters were motivated to alter their commercial behaviour solely for the purposes of ensuring that dumping margins were negative in the inquiry period, and hence ensure that measures were allowed to expire.⁸⁶ The Commission notes that there is no evidence before it which would support this claim, again noting that the most recently examined period prior to the inquiry period (and set out in REP 445) found no dumping by Saha Thai, and *de minimis* dumping by TPP. On that basis, it is arguable that the absence of dumped prices is the normal commercial behaviour of the major exporters from Thailand since 1 October 2016. In any event, the absence of dumping during the inquiry period does not necessarily mean the measures will be allowed to expire, since no one factor provides decisive guidance.

The Commission has also compared the NIP for Thailand with the quarterly weighted average export prices for the inquiry period. The NIP is significantly higher than the undumped export prices from Thailand; even when the Commission excludes galvanised HSS from the USP, the degree of price difference between HSS export prices from Thailand and the NIP (adjusted to also exclude galvanised HSS), remains significant. Such a price difference confirms for the Commission that Thai exporters have a significant price advantage, such that the NIP is undercut by undumped export prices from Thailand. The evidence before the Commission indicates that the current measures applying to HSS exported from Thailand have little, if any, influence on export price strategies, and therefore the expiry of the measures is unlikely to result in any significant change in those same strategies in the future.

⁸⁵ EPR 532, document no. [14](#) refers.

⁸⁶ EPR 532, [document no. 27](#) refers.

7.4.8 Impact of HRC costs on prices

ATM provided a detailed submission on the impact of HRC on HSS prices showing that, in the inquiry period, HRC prices were volatile on a monthly basis, with prices decreasing overall between the start and end of the period.⁸⁷ ATM claims that the Commission should examine whether the invoice date is the appropriate date of sale for calculating the dumping margins, given that movements in HRC prices would be lagged by two to three months between HSS export order and delivery and would impact the actual cost (and price) of exported HSS.

ATM claims that, in effect, the quarterly price comparison with domestic HSS prices is unequal such that export prices in the March 2019 quarter should be compared with domestic prices in the December 2018 quarter (for example) to off-set this effect.

The date of sale issue can be a complex question to be resolved during the verification process. The Commission's usual practice is to consider the date of sale to be the invoice date unless some other claim to the contrary has been made, the claim verified and the particular circumstances warrant a different date of sale approach. The Commission does not consider there to have been any evidence provided in response to the SEF 532 which raises doubts as to the approach already taken in respect of the exporters examined in this inquiry.

Nonetheless, the Commission has re-examined the comparative CTM and domestic and export prices of model-matched MCCs over the inquiry period to assess the claims made by ATM. The Commission notes that on a monthly basis HSS prices for both markets declined in the inquiry period in response to a decline in costs (driven by HRC prices). In terms of a price lag between domestic and export prices for HSS, there does appear to be some support for ATM's claim, in terms of a month on month percentage price difference. However, the price lag does not occur to the degree suggested. In fact, the price lag for exports, i.e. how long it takes for a price change to occur for exports to Australia with reference to the price decrease domestically, occurs one month after the domestic price and on each occasion an increase or decrease in monthly domestic prices corresponds with the same increase or decrease in export prices within the same quarter. Hence, the Commission's quarterly comparison of normal values and export prices aligns for the purposes of the dumping margin calculations.

The Commission notes the HRC price volatility has impacted the domestic and export prices for HSS from Thai exporters and agrees with ATM that the current form of the measures, where there is a floor price applied, provide some buffer against declining HSS export prices. However, the purpose of the measures is to provide a remedy for dumped export prices and the available evidence before the Commission demonstrates that Thai domestic prices (and hence normal values) also respond to declining HRC prices in the same manner as export prices – i.e. circumstances of export trade are not unilaterally affected such as to create a situation of dumping that would make the measures effective.

7.4.9 Measures imposed by other countries

The Commission has observed that HSS exported from Thailand is also subject to anti-dumping measures imposed by other jurisdictions. Table 12 shows these measures.

⁸⁷ Ibid.

Orrcon claimed in its application that both Canadian and US anti-dumping authorities have concluded that the anti-dumping measures in their respective jurisdictions should continue on certain welded pipe (i.e. HSS) exported from Thailand to prevent the recurrence of the material injury that the anti-dumping measures are intended to prevent.⁸⁸ Orrcon drew these measures to the Commission's attention again in its submission in response to SEF 532.⁸⁹

Country	Period examined	Decision date	Common exporters	Dumping margin
USA	March 2017 to February 2018	November 2019	Saha Thai TPP Pacific Pipe	5.15%
USA	March 2018 to February 2019	February 2020 (preliminary)	Saha Thai TPP Pacific Pipe	0.00%
Canada	January to December 2011	November 2012 (continued in 2019)	Saha Thai Pacific Pipe All other exporters	3.8% 5.4% 54.2%

Table 12: Anti-dumping measures imposed by other countries on certain circular welded steel

A current review of the USA measures made a preliminary finding on 4 February 2020 that dumping margins are at zero per cent on circular welded carbon steel pipe and tube exported to the USA from Thailand.⁹⁰ Whilst the existence of measures on exports of HSS from Thailand to other jurisdictions is a relevant factor to consider, those measures appear to have limited relevance to what has occurred in the Australian market. For similar reasons to those set out above in respect of the section 232 measures, the goods exported from Thailand to Australia already enjoy a comparative advantage in respect of the measures that have been imposed on exports of HSS from Thailand to other jurisdictions. The available evidence does not support a conclusion that, if the anti-dumping measures in Australia are not continued, the even more advantageous circumstances that would be enjoyed by Thai exporters would be likely to result in future exports being at dumped prices or material injury being caused to the Australian industry.

7.4.10 The effectiveness of the current measures

ATM claims the Commission has incorrectly concluded that improvements to the economic condition of the Australian industry do not coincide with the measures on HSS exported from Thailand.⁹¹ ATM reproduced the Commission's Figure 9 (price and cost) and Figure 10 (profit and profitability) analysis from Chapter 5 of SEF 532 in its submission, and overlaid the analysis with key events, such as the initiation of the original investigation, the publication of *Preliminary Affirmative Determination No. 254* and REP 254.⁹² ATM is of the view that the improvements in price and profit from October 2013 described by the Commission's analysis can be directly attributed to the securities and measures imposed in the original investigation.

⁸⁸ EPR 532, document no. [1](#) refers.

⁸⁹ EPR 532, document no. [26](#) refers.

⁹⁰ The USA's Federal Register [website](#) refers.

⁹¹ EPR 532, [document no. 27](#) refers.

⁹² All relevant documents are available on EPR 254 on the Commission's website.

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The Commission notes that for the full period that measures have been in place on exports of HSS from Thailand, there have also been measures on HSS exported from China, Korea, Malaysia and Taiwan. The Commission also notes that, based on the analysis shown in Figure 12, the majority of imports of HSS since October 2013 are from countries that are not subject to measures, and from China, Korea, Malaysia and Taiwan. Those volumes have increased substantially each year, compared to HSS from Thailand.

As the volumes from these countries have increased, imports of HSS from Thailand have remained a small portion of the Australian market. These volumes have remained stable since the time of the decision in REP 254, even with the evolving challenges faced by Thai producers in their domestic market and the loss of the USA export market as a result of the section 232 measures.

The Commission agrees that, since the period examined in REP 254, the Australian industry's economic condition has improved in some respects. Chapter 5 shows that:

- the Australian industry's sales volumes have been generally flat (Figure 5);
- in a growing market the Australian industry's market share has generally declined (Figure 7);
- its profit and profitability (Figure 10) are better than in REP 254;
- revenue has increased faster than its sales volume (Figure 11); and
- prices have generally increased, albeit in line with increases in costs (Figure 8 and Figure 9), which strongly suggests this has occurred in a highly price-competitive environment.

Based on the evidence before it, the Commission is not satisfied that these outcomes can be attributed solely to the imposition of the measures on Thailand, and certainly not in isolation from the impact that other features of the market (particularly HSS from other subject and non-subject countries) have also had. Critically:

- the volume and market share of HSS from Thailand has remained essentially flat over the same period of time (Figure 7 and Figure 12);
- Thailand exporters enjoy comparatively advantageous anti-dumping measures, and yet no increase in market share has occurred;
- Thailand exporters enjoy a significant price advantage over the Australian industry (Figure 20), and over HSS from exporters from other subject countries, and yet no increase in market share has occurred
- the same importers have continued to purchase HSS from Thailand from largely the same exporters since REP 254 (Figure 13); and
- this all occurred in periods in which HSS from Thailand was exported at prices which were not dumped (the inquiry period) or were mostly not dumped or at *de minimis* margins (the period in REP 445).

From the evidence before it, the Commission is not satisfied that Thai exporters have an incentive to reduce their export prices further and recommence dumping. In addition, even if dumping was to recur, the evidence suggests that the undumped price advantage enjoyed by Thai exporters and the low volume of exports has a negligible connection with the economic performance of the Australian industry and hence is unlikely to result in material injury.

7.5 Commission's assessment

The Commission considers that, whilst the presence (or absence) of dumping during the inquiry period may be indicative of future behaviour, this factor alone is not determinative.

In this case, the Commission considers that the degree of the negative dumping margins of all the Thai exporters indicates that each could have reduced their export prices even further and still not have dumped during the inquiry period. Additionally, despite exporting HSS to Australia at lower prices than any other country subject to measures, all Thai exporters that exported the goods in the inquiry period did so profitably.

The share of the market held and the volume of HSS exported from Thailand has been stable, notwithstanding the existence of the measures. The high degree of price competition and the apparent price advantage that Thai exporters have consistently had in the Australian market does not satisfy the Commission that there is an incentive for Thai exporters to recommence dumping should the anti-dumping measures expire. In addition, the Commission has observed that the significant existing price advantage enjoyed by Thai exporters in the Australian market has not had any discernible impact on the economic condition of the Australian industry.

The Commission also notes that, whilst the impact of COVID-19 on the Australian market remains uncertain, all participants in the market are likely to be affected by reduced demand for HSS, which is likely to lead to increased competition on prices to achieve sales volume and market share. There is no evidence before the Commission to suggest that in those circumstances the Thailand exporters would reduce their already low prices by a degree which is sufficient to commence dumping, nor that in doing so the Thailand exporters would cause injury to the Australian industry that would be material.

Having considered the evidence before the Commission, the Commissioner is not satisfied that the expiration of the anti-dumping measure would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the anti-dumping measure is intended to prevent.

8 RECOMMENDATION TO MINISTER

8.1 Findings

For the reasons contained in this report, and pursuant to section 269ZHF(2), the Commissioner is **not** satisfied that the expiration of the anti-dumping measure applying to HSS exported to Australia from Thailand would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the anti-dumping measure is intended to prevent.

8.2 Recommendations

Pursuant to section 269ZHF(1)(a)(iv), the Commissioner recommends that the notice expire on the specified expiry day and, pursuant to section 269ZHG(1)(a), that the Minister **declare**:

- that she has decided not to secure the continuation of the anti-dumping measures relating to the goods exported to Australia from Thailand with effect from 19 August 2020.

The Commissioner recommends that the Minister **be satisfied that**:

- pursuant to section 269TAB(3), sufficient information has not been furnished, or is not available, to enable the export price of the goods exported to Australia by Pacific Pipe and the uncooperative and all other exporters from **Thailand** to be ascertained under the section 269TAB(1); and
- pursuant to section 269TAC(6), sufficient information has not been furnished, or is not available, to enable the normal value of the goods exported to Australia by the uncooperative and all other exporters from Thailand to be ascertained under the preceding sections of section 269TAC.

The Commissioner recommends that the Minister **determine**:

- the **export price**
 - for the goods exported by Saha Thai and TPP under section 269TAB(1)(a);
 - for exports by Pacific Pipe under section 269TAB(3), being the weighted average of export prices ascertained for Saha Thai and TPP;
 - for exports by the uncooperative and all other exporters from Thailand under section 269TAB(3), having regard to all relevant information, specifically, the export price applicable to Saha Thai and TPP;
- the **normal value**
 - for the goods exported by Pacific Pipe, Saha Thai and TPP under section 269TAC(1), having regard to whether those domestic sales were in the OCOT pursuant to section 269TAAD;
 - for the goods exported from Thailand by the uncooperative and all other exporters, under section 269TAC(6), having regard to all relevant information as set out in **Confidential Attachment 3** to this report;

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- the **dumping margin**
 - for the goods exported by Pacific Pipe, Saha Thai and TPP calculated for the purposes of this inquiry in accordance with section 269TACB(2)(a), by comparing the weighted average export prices over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of that period; and
 - for the goods exported by the uncooperative and all other exporters calculated for the purposes of this inquiry in accordance with section 269TACB(2)(a), by comparing the weighted average export prices over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of that period.

The Commissioner recommends that the Minister **direct**:

- such adjustments as set out in tables 7, 8 and 10 of this REP 532 to ensure the comparability of normal values to export prices, pursuant to section 269TAC(8).

9 ATTACHMENTS

Confidential Attachment 1	The Australian market
Confidential Attachment 2	Economic condition
Confidential Attachment 3	Dumping margin summary
Confidential Attachment 4	USP and NIP calculations
Confidential Attachment 5	Future dumping and injury