



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

**Anti-Dumping
Commission**

**Exemption Inquiry Report
EX0070, EX0071 and EX0072**

Steel Reinforcing Bar (rebar)

**Exported to Australia from the People's Republic of
China, Greece, the Republic of Indonesia, the
Republic of Korea, the Republic of Singapore, the
Kingdom of Spain, Taiwan and the Kingdom of
Thailand**

Applicant: International Drilling Equipment Pty Ltd

5 July 2019

Table of contents

Abbreviations	4
1. Summary and recommendations	5
1.1 Recommendation.....	5
1.1.1 EX0070 – 40 mm threadbar	5
1.1.2 EX0071 – 28 mm threadbar	5
1.1.3 EX0072 – fully threaded prestressing steel threadbar	5
1.2 Application of law to facts.....	6
1.2.1 Authority to make the decision.....	6
1.2.2 Initiation of inquiry	6
1.3 Findings and conclusions.....	6
2. Background to measures.....	8
2.1 Previous investigations	8
2.2 The goods subject to measures	8
2.3 Tariff classification	9
3. Exemption inquiry	10
3.1 Exemption applications	10
3.2 Goods subject to the application for exemption.....	10
3.3 Claims made in the application	10
3.4 Exemption inquiry	11
3.5 Legislative requirements for an exemption.....	12
3.6 Definition of “like or directly competitive goods”	12
3.7 Definition of “custom and usage of trade”.....	14
4. Australian industry’s offer for sale of ‘like’ or ‘directly competitive’ goods	15
4.1 EX0070 and EX0071 – 40 mm and 28 mm diameter threadbar	15
4.2 EX0072 – fully threaded prestressing steel threadbar	18
5. The Commission’s assessment – like or directly competitive goods offered for sale in Australia.....	21
5.1 Finding.....	21
5.2 EX0070 and EX0071 – Like or directly competitive goods offered for sale in Australia	21
5.2.1 Directly competitive goods.....	21
5.2.2 Like goods.....	25
5.3 EX0072 – Like or directly competitive goods offered for sale in Australia.....	26
5.3.1 Like goods.....	26
5.4 Conclusion.....	27
6. To all purchasers on equal terms under like conditions	28
6.1 EX0070 and EX0071 – 40 mm and 28 mm diameter threadbar	28
6.2 EX0072 – fully threaded prestressing steel threadbar	28
7. The Commission’s assessment – to all purchasers on equal terms under like conditions	29
7.1 Finding.....	29
7.2 EX0070 and EX0071 – To all purchasers on equal terms under like conditions	29
7.3 EX0072 – To all purchasers on equal terms under like conditions	29
7.4 Conclusion.....	30
8. Having regard to the custom and usage of trade.....	31

8.1	Custom and usage of trade.....	31
8.2	EX0070 and EX0071 – steel threadbar grade strength 500N at 28 mm and 40 mm.....	31
8.2.1	Directly competitive goods.....	31
8.2.2	Like goods.....	31
8.3	EX0072 – fully threaded prestressing steel threadbar	32
8.3.1	Like goods.....	32
9.	The Commission’s assessment – Having regard to the custom and usage of trade.....	33
9.1	Finding.....	33
9.2	EX0070 and EX0071 – Having regard to the custom and usage of trade.....	33
9.2.1	Directly competitive goods.....	33
9.2.2	Like goods.....	34
9.3	EX0072 – Having regard to the custom and usage of trade .	34
9.3.1	Like goods.....	34
9.4	Conclusion.....	35
10.	Competition with domestic goods	36
10.1	Submission by Australian industry	36
10.2	Consideration by the Commission.....	36
11.	Identification of the Exemption Goods	36
11.1	Submission by Australian industry	36
11.2	Consideration by the Commission.....	37
12.	Recommendation	37
12.1	Recommendation for each application	37
12.1.1	EX0070 – 40 mm threadbar	37
12.1.2	EX0071 – 28 mm threadbar	37
12.1.3	EX0072 – fully threaded prestressing steel threadbar	38
12.2	Effective date of exemption.....	38
12.2.1	EX0070 – 40 mm threadbar	38
12.2.2	EX0072 – fully threaded prestressing steel threadbar	38
	Attachments	39

Abbreviations

Abbreviations/short form	Full reference
ACRS	Australasian Certification Authority for Reinforcing and Structural Steels
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Applicant	International Drilling Equipment Pty Ltd
AS/NZS4671	Australian/New Zealand Standard AS/NZS4671
China	the People's Republic of China
Commission	the Anti-Dumping Commission
Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Duties	interim dumping duty and dumping duty
exemption goods	the goods subject of the application as described in section 3.2
Indonesia	the Republic of Indonesia
Korea	the Republic of Korea
Liberty Steel	collectively, Liberty OneSteel (Newcastle) Pty Ltd, OneSteel NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd
Millcon	Millcon Steel PLC
Minister	the Minister for Industry, Science and Technology
Mm	millimetres
questionnaire	collectively, the Response to Exemption Application questionnaires for EX0070, EX0071 and EX0072
Singapore	the Republic of Singapore
Spain	the Kingdom of Spain
Thailand	the Kingdom of Thailand
UTS	Ultimate Tensile Strength

1. Summary and recommendations

This report sets out the findings of the Anti-Dumping Commission (the Commission) in response to three applications by International Drilling Equipment Pty Ltd requesting exemptions from interim dumping duty and dumping duty (the duties) under subsection 8(7)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*¹ (the Dumping Duty Act). The applications are in relation to steel reinforcing bar (rebar) exported to Australia from the People's Republic of China (China), Greece, the Republic of Indonesia (Indonesia), the Republic of Korea (Korea), the Republic of Singapore, the Kingdom of Spain, Taiwan and the Kingdom of Thailand (Thailand).

The Commissioner of the Anti-Dumping Commission (the Commissioner) has relied upon this report to make a recommendation to the Minister for Industry, Science and Technology on whether or not to exempt certain goods from the duties.

As International Drilling Equipment is the applicant for each application and the exemption goods described in each application share a number of similarities, the Commission has addressed each application in this report.

1.1 Recommendation

1.1.1 EX0070 – 40 mm threadbar

The Commission has found that like or directly competitive goods to the exemption goods in application EX0070 are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. The Commission considers the conditions of subsection 8(7)(a) of the Dumping Duty Act for granting an exemption are satisfied.

The Commissioner recommends to the Minister that the exemption goods be exempted from the duties.

1.1.2 EX0071 – 28 mm threadbar

The Commission has found that like or directly competitive goods to the exemption goods in application EX0071 are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. The Commission considers the conditions of subsection 8(7)(a) of the Dumping Duty Act for granting an exemption are not satisfied.

The Commissioner recommends to the Minister that the exemption goods not be exempted from the duties.

1.1.3 EX0072 – fully threaded prestressing steel threadbar

Fully threaded prestressing steel threadbar at diameters of 15 mm and 20 mm

The Commission has found that like or directly competitive goods to the exemption goods in application EX0072, at diameters of 15 mm and 20 mm, are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. The Commission considers the conditions of subsection 8(7)(a) of the Dumping Duty Act for granting an exemption in respect of the exemption goods at diameters of 15 mm and 20 mm are not satisfied.

¹ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Tariff (Anti-Dumping) Act 1975* unless otherwise specified.

The Commissioner recommends to the Minister that the exemption goods at diameters of 15 mm and 20 mm not be exempted from the duties.

Fully threaded prestressing steel threadbar at diameters greater than 20 mm and less than or equal to 50 mm

The Commission has found that like or directly competitive goods to the exemption goods in application EX0072, at diameters greater than 20 mm and less than or equal to 50 mm, are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. The Commission considers the conditions of subsection 8(7)(a) of the Dumping Duty Act for granting an exemption are satisfied.

The Commissioner recommends to the Minister that the exemption goods at specified diameters greater than 20 mm and less than or equal to 50 mm be exempted from the duties.

1.2 Application of law to facts

1.2.1 Authority to make the decision

Subsection 8(7) of the Dumping Duty Act sets out, among other things, the matters to be considered by the Minister in deciding whether to exercise their discretion to exempt goods from the duties.

1.2.2 Initiation of inquiry

After examining the applications, the Commission initiated three separate inquiries (EX0070, EX0071 and EX0072) on 25 January 2019. The details of each initiation are contained in Anti-Dumping Notice (ADN) No. 2019/15.²

1.3 Findings and conclusions

The Commission has made the following findings and conclusions based on the applications and information provided by the applicant and the Australian manufacturers of rebar, Liberty OneSteel (Newcastle) Pty Ltd, OneSteel NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd (collectively, Liberty Steel):

Application	Findings	Conclusion
EX0070 40 mm diameter threadbar	40 mm threadbar is a like good to the exemption goods and is offered (but not currently produced) for sale in Australia to all purchasers on equal terms under like conditions, but is not offered consistent with the custom and usage of trade for the sale of such goods. No further like or directly competitive goods to the exemption goods were found to be offered for sale in Australia.	The Commissioner recommends that the exemption goods be exempted from the duties.
EX0071 28 mm diameter threadbar	32 mm threadbar is a directly competitive good to the exemption goods and is offered for sale in Australia to all purchasers on equal terms under like conditions, consistent with the custom	The Commissioner recommends that the exemption goods not be exempted from the duties.

² See EX0070, EX0071 and EX0072 Public Record Item No. 2

	and usage of trade for the sale of such goods.	
EX0072 Fully threaded prestressing steel threadbar	<p>There is an Australian industry producing like goods to the exemption goods at diameters of 15 mm and 20 mm, with the goods at these diameters offered for sale in Australia to all purchasers on equal terms under like conditions, consistent with the custom and usage of trade for the sale of such goods.</p> <p>Australian industry offers (but does not currently produce) like goods to the exemption goods at diameters greater than 20 mm and less than or equal to 50 mm for sale in Australia to all purchasers on equal terms under like conditions, but this offer is not consistent with the custom and usage of trade for the sale of such goods.</p> <p>Like or directly competitive goods at diameters greater than 50 mm are not the goods and are not subject to measures.</p>	<p>The Commissioner recommends that the exemption goods at diameters of 15 mm and 20 mm not be exempted from the duties.</p> <p>The Commissioner recommends that the exemption goods at diameters greater than 20 mm and less than or equal to 50 mm be exempted from the duties.</p>

2. Background to measures

2.1 Previous investigations

Anti-dumping measures, in the form of dumping duty notices, were initially imposed by public notice on rebar as follows:

- on 19 November 2015,³ by the then Parliamentary Secretary to the Minister for Industry, following consideration of *Anti-Dumping Commission Report No. 264* (REP 264). Following review of the then Parliamentary Secretary's decision by the Anti-Dumping Review Panel, the notice was amended to exclude exports by Nervacero S.A. (Spain). These measures are applicable to all exporters from Korea, Singapore, Spain (except Nervacero S.A.) and Taiwan (except Power Steel Co. Ltd);⁴
- with an effective date of 14 April 2016,⁵ by the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science, following consideration of *Anti-Dumping Commission Report No. 300* (REP 300). These measures are applicable to all exporters from China; and
- with an effective date of 8 March 2018,⁶ by the then Assistant Minister for Science, Jobs and Innovation and Parliamentary Secretary to the Minister for Jobs and Innovation, following consideration of *Anti-Dumping Commission Report No. 418* (REP 418). These measures are applicable to all exporters from Greece, Indonesia (excluding PT Ispat Panca Putera and PT Putra Baja Deli), Thailand and selected exporters from Spain (by Nervacero S.A) and Taiwan (by Power Steel Co. Ltd).

2.2 The goods subject to measures

The goods exported from China, Greece, Indonesia, Korea, Singapore, Spain, Taiwan and Thailand covered by the current dumping duty notices are:⁷

Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.

The goods covered include all steel reinforcing bar meeting the above description regardless of the particular grade, alloy content or coating.

The following goods are excluded from the current duty notices:

Plain round bar, stainless steel and reinforcing mesh.

³ ADN No. 2015/133, available on the Commission's website.

⁴ ADRP Report No. 34, available at <https://www.industry.gov.au/data-and-publications/anti-dumping-review-panel-past-reviews/steel-reinforcing-bar-exported-from-the-republic-of-korea-singapore-spain-and-taiwan>

⁵ ADN No. 2016/39, available on the Commission's website.

⁶ ADN No. 2018/10, available on the Commission's website.

⁷ As described in ADN Nos. 2015/133, 2016/39 and 2018/10.

2.3 Tariff classification

The goods subject to measures may be classified under the following subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

- 7213.10.00 [42]
- 7214.20.00 [47]
- 7227.90.10 [69]
- 7227.90.90 [01, 02, 04]
- 7228.30.10 [70]
- 7228.30.90 [40]
- 7228.60.10 [72]
- 7228.30.90 [49]

3. Exemption inquiry

3.1 Exemption applications

On 28 September 2018, the applicant wrote to the Commission requesting exemptions from the duties in relation to certain forms of rebar.⁸ An application for an exemption for a further form of rebar was received from the applicant on 9 November 2018.⁹

Due to the common applicant and the similarities of the goods which are the subject of the applications, the Commission has addressed each application in this report.

3.2 Goods subject to the application for exemption

The goods subject to the applications for exemption were described by the applicant as follows:

Case number	Exemption goods description in the application
EX0070	40 mm steel threadbar grade strength 500N
EX0071	28 mm steel threadbar grade strength 500N
EX0072	fully threaded prestressing steel threadbar with a grade strength of 885 MPa to 1100 MPa and diameters of 15 mm to 75 mm

For the purposes of this report, the goods as described above may be referred to as “the exemption goods” or “threadbar”, unless otherwise apparent from the context.

The Commission notes that, while the applicant has referred to imports from Thailand by Millcon Steel PLC (Millcon) (which manufactures threadbar on behalf of BBV Systems Co. Ltd), the applications are for threadbar exported by any exporter to whom the measures currently apply.

3.3 Claims made in the application

In support of its claim that like or directly competitive goods were not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade, the applicant provided the following grounds:

EX0070 and EX0071

- There are no Australian manufacturers of 28 mm and 40 mm steel threadbar grade strength 500N.
- The rib geometry for threadbar is completely different from steel reinforcing bar. It is a continuously rolled coarse thread onto which steel nuts and couplers can be screwed anywhere along the entire length of the threadbar. This is impossible with standard stock reinforcing bars as they are not threaded.
- Threadbar is used in ground applications such as rock bolting/anchoring as well as soil nailing.

⁸ See EX0070 and EX0071 Public Record Item No. 001

⁹ See EX0072 Public Record Item No. 001

- Threadbar can be readily modified on site because the continuous thread allows couplers and joiners to be used to extend the bars and for end anchorage such as nuts and plates to be installed at any position along the threadbar.
- Design engineers specify threadbar instead of unthreaded rebar (hereon referred to as just “rebar”), because machining a thread on rebar reduces the strength of the bar at the point where the machining has occurred. There are also significant lead times involved in machining a thread onto rebar due to the galvanizing process.

EX0072

- There are no Australian manufacturers of fully threaded prestressing steel threadbar with a grade strength of 885 MPa to 1100 MPa and diameters of 15 mm to 75 mm.
- The rib geometry of threadbar is completely different from steel reinforcing bar. It is a continuously rolled coarse thread onto which steel nuts and couplers can be screwed anywhere along the entire length of the threadbar. This is impossible with standard stock reinforcing bars as they are not threaded.
- Threadbar can be readily modified on site because the continuous thread allows couplers and joiners to be used to extend the bars and for end anchorage such as nuts and plates to be installed at any position along the threadbar.
- Fully threaded prestressing steel threadbar is unique in that it has “double the strength of reinforcing bar”, “has stringent mechanical properties including elongation, ductility and relaxation” and “allows for effective and sufficient stressing against concrete and rock”.
- Design engineers specify fully threaded prestressing steel threadbar instead of threadbar with a grade strength of 500N because of the higher maximum yield strength.

3.4 Exemption inquiry

The Commission accepted the applicant’s letters as applications for exemptions from the duties. On 25 January 2019, the Commissioner initiated three exemption inquiries by publishing ADN No. 2019/15. ADN No. 2019/15 advised that the exemption inquiries had been initiated, provided details of the goods subject to the inquiry and outlined the procedures to be followed during each inquiry.

On 25 January 2019, the Commission sent invitations to Liberty Steel and Commonwealth Steel Company Pty Ltd t/a Moly-Cop to respond to each application, by completing *Response to Exemption Application* questionnaires in respect of each exemption good (collectively referred to as “the questionnaire”) and requested that responses be received no later than 4 March 2019.

On 25 March 2019, the Commission received a request from Liberty Steel to extend the time to respond to the questionnaire until 15 April 2019.¹⁰ The Commission agreed to this request.

A completed response from Liberty Steel to the questionnaire was received on 15 April 2019.¹¹

On 6 May 2019, the Commission wrote to both the applicant and Liberty Steel seeking further information in respect of the applications and the questionnaire response.¹²

The applicant and Liberty Steel both provided a response to the Commission's request on 13 May 2019.¹³

On 19 June 2019, Liberty Steel made a further submission to the Commission.¹⁴

3.5 Legislative requirements for an exemption

The applicant has applied for exemptions under subsection 8(7)(a) of the Dumping Duty Act.

Subsection 8(7) provides:

- (7) *The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:*
 - (a) *that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;*

...

The applicant requests that the Minister exercise their discretion to exempt goods from the duties on the basis that like or directly competitive goods are not offered for sale in Australia.

3.6 Definition of “like or directly competitive goods”

Like goods

The term “like goods” is defined in subsection 269T(1) of the *Customs Act 1901* (the Act). Section 6 of the Dumping Duty Act provides that the Act is incorporated and shall be read as one with the Dumping Duty Act. Accordingly, the definition of “like goods” in the Act is applicable to the Commission's assessment of whether the exemption goods are “like goods” under subsection 8(7)(a) of the Dumping Duty Act.

Subsection 269T(1) of the Act 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.

¹⁰ See EX0070, EX0071 and EX0072 Public Record Item No. 003

¹¹ See EX0070, EX0071 and EX0072 Public Record Item No. 004

¹² See EX0070, EX0071 and EX0072 Public Record Item No. 005 and 006

¹³ See EX0070, EX0071 and EX0072 Public Record Item No. 007 and 008

¹⁴ See EX0070, EX0071 and EX0072 Public Record Item No. 009

Chapter 2 of the Commission's *Dumping and Subsidy Manual*¹⁵ embodies the Commission's established policy and practice in relation to like goods. Where two goods are identical they are automatically like goods, but where two goods are not alike in all respects the Commission will assess whether they have characteristics closely resembling each other including assessing their physical likeness, commercial likeness, functional likeness and production likeness.

Directly competitive goods

The term "directly competitive" is not defined in the Dumping Duty Act or the Act and has not been the subject of judicial consideration by Australian courts.

Accordingly, assistance in understanding this term can be derived by having recourse to relevant dictionary definitions and case law. Case law suggests an assessment of a "direct" relationship is a question of fact and degree.¹⁶ Drawing on the Macquarie Dictionary and case law, the Commission defines "directly" as:

excluding that which is indirect or remote;¹⁷ absolutely; exactly; precisely.

The Macquarie Dictionary also defines "competitive" as:

of, relating to, involving, or decided by competition; and

having a feature comparable or superior to that of a commercial rival.

The phrase "*directly competitive*" can therefore be taken to refer to goods with comparable features that rival each other in a commercial market. The assessment will be one of fact and degree, and the goods will not merely remotely or indirectly compete.

Alternatives to satisfying subsection 8(7)(a) of the Dumping Duty Act

The exemption provisions in subsection 8(7)(a) specifically provide for exemptions where either like goods or directly competitive goods are not offered for sale in Australia. It is not necessary to be satisfied that there are both like goods and directly competitive goods for sale in Australia in order to deny the application for an exemption. It is sufficient for there to be either like goods or directly competitive goods for sale in Australia for the requirements of the exemption not to be met.

If there are no like or directly competitive goods offered for sale in Australia, then the requirements for exemption in subsection 8(7)(a) will be met.

If there are like or directly competitive goods, then it is necessary to consider whether these like or directly competitive goods are:

1. offered for sale in Australia;
2. to all purchasers on equal terms under like conditions; and
3. having regard to the custom and usage of trade.

¹⁵ Available at www.industry.gov.au

¹⁶ *Adelaide Development Co Pty Ltd v Corporation of the City of Adelaide and Anor* (1991) 56 SASR 497 at [45].

¹⁷ *Ibid.*

3.7 Definition of “custom and usage of trade”

Although the domestically produced goods may be “like or directly competitive goods”, the Minister may still grant an exemption to duties in circumstances where the “like or directly competitive goods” are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the “custom and usage of trade”.

The term “custom and usage of trade” is not defined in the Dumping Duty Act or the Act. The Macquarie Dictionary defines “custom” as:

a habitual practice; the usual way of acting in given circumstance; and habits or usages collectively; convention.

The Macquarie Dictionary defines “usage” as:

*customary way of doing; a custom or practice;
the body of rules or customs followed by a particular set of people;
usual conduct or behaviour.*

As custom can only be inferred from a large number of individual acts, the existence of a custom and usage of trade must involve:

the multiplication or aggregation of a great number of particular instances; but these instances must not be miscellaneous in character, but must have a principle of unity running through their variety, and that unity must show a certain course of business and an established understanding respecting it.¹⁸

Custom or usage of trade is a term used in common law in the interpretation of implied terms in contracts within a particular trade or industry.¹⁹ When considering what is “custom or trade usage” the courts have concluded that:

1. Custom or usage was established mercantile usage or professional practice: *Byrne v Australian Airlines Ltd* (1995) 185 CLR 410 at 440; and
2. Evidence of actual market practices was crucial to the existence of a custom or usage. However, universal acceptance was not necessary: *Con-Stan Industries of Australia Pty Ltd v Norwich Winterthur Insurance (Australia) Ltd* (1986) 160 CLR 226.

¹⁸ *Anderson v Wade* (1899) 20 N.S.W.R. 412 at p. 417.

¹⁹ *Castlemaine Tooheys Ltd v Carlton & United Breweries Ltd* (1987) 10 NSWLR 468.

4. Australian industry’s offer for sale of ‘like’ or ‘directly competitive’ goods

In its application, the applicant made a number of claims with regards to Australian industry’s offer of like or directly competitive goods. These claims were addressed by Liberty Steel, on behalf of Australian industry, in its questionnaire response and further submissions. These claims are set out below.

4.1 EX0070 and EX0071 – 40 mm and 28 mm diameter threadbar

Applicant claims	Australian industry response
<ul style="list-style-type: none"> • There are no Australian manufacturers of 28 mm and 40 mm diameter steel threadbar of grade strength 500N. • Rib geometry for threadbar is completely different from steel reinforcing bar. It is a continuously rolled coarse thread onto which steel nuts and couplers can be screwed anywhere along the entire length of the threadbar. This is impossible with standard stock reinforcing bars as they are not threaded. • Threadbar is used in ground applications such as rock bolting/anchoring as well as soil nailing. • Threadbar can be readily modified on site because the continuous thread allows couplers and joiners to be used to extend the bars and for end anchorage such as nuts and plates to be installed at any position along the threadbar. • Design engineers specify threadbar instead of reinforcing bar because machining a thread on rebar reduces the strength of the bar at the point where the machining has occurred. There are also significant lead times involved in machining a thread onto rebar due to the galvanizing process. 	<p>Response on the basis that Liberty Steel produces Directly Competitive Goods</p> <ul style="list-style-type: none"> • Liberty Steel produces deformed bar in straight lengths, grade 500N with nominal diameter of 28 mm and 40 mm, which are considered to be directly competitive with “the exemption goods” in terms of the following aspects: <ul style="list-style-type: none"> <i>Physical likeness</i> Both present as either 28 mm or 40 mm nominal diameter bar with a deformed rib pattern introduced during the hot-rolling process, i.e. deformed bar in straight lengths. <i>Production likeness</i> Both are produced with a hot rolling process, requiring no further processing for sale. Both are produced to AS/NZS4671 Steel Reinforcing Materials, Grade 500N. The chemistry and mechanical property requirements specified by AS/NZS4671 are identical. <i>Functional likeness</i> Both ‘the exemption goods’ and the ‘goods produced in Australia’ are functionally alike, as both: <ul style="list-style-type: none"> ○ are produced to grade 500N;

<ul style="list-style-type: none"> • Liberty Steel produces a reinforcing steel grade 500 threadbar called Reidbar in 16, 20, 25 and 32 mm diameters. Liberty Steel does not produce threadbar in 28 mm or 40 mm diameters. 	<ul style="list-style-type: none"> ○ are certified by the Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) as “Hot Rolled Steel Reinforcing Bar” meeting the requirements of AS/NZS4671; ○ are in straight lengths; and ○ are capable of use in concrete reinforcing applications. <p>The Thailand mill (Millcon) which produces “the exemption goods” trademarked as “Onebar” holds an ACRS certificate similar to that of Liberty Steel.</p> <p><i>Commercial likeness</i></p> <p>Both types of bar are sold for concrete reinforcing purposes. The verified information before the Commission supports this contention.²⁰</p> <p>Response on the basis that Liberty Steel produces Like Goods</p> <ul style="list-style-type: none"> • Further to the above, Liberty steel contends that it is able to produce 28 mm and 40 mm diameter bar with a continuous thread rib profile, based on its proven capability to produce both threaded rib profiles and bar size and grade required, specifically: <ul style="list-style-type: none"> ○ Grade 500N reinforcing bar in both 28 mm and 40 mm diameters; and ○ Grade 500N with a continuous thread rib profile in 25 mm and 32 mm. <p>All that is required to produce the exemption goods is a modification to the rolls at one of its mills and an order to supply the exemption goods.</p> <ul style="list-style-type: none"> • Liberty Steel contacted the applicant seeking an opportunity to quote and offer to sell and supply the exemption goods to the applicant, which was it claims was rejected.
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²⁰ Investigation 264 Public Record Item No. 062, pages 11-12

Further submissions following Commission request for further information

- | | |
|---|--|
| <ul style="list-style-type: none">• Threadbar produced at 25 mm and 32 mm diameters is not substitutable for 28 mm and 40 mm threadbar due to their smaller cross section and lower strength.• Minimum yields of 25 mm and 32 mm diameter threadbar available from Liberty Steel known as Reidbar is 245.5kN and 402kN respectively, compared to 307.5kN and 630kN for 28 mm and 40 mm diameter threadbar. | <ul style="list-style-type: none">• Both threadbar and rebar are used in steel reinforcing applications. The deformations on both types allow the concrete to adhere to the steel bar. The use of threaded bar allows the bar to be cut in-situ and joined with connectors.• 28 mm and 40 mm diameter threadbar if exempted would compete directly with domestically manufactured 28 mm and 40 mm rebar as well as 25 mm and 32 mm diameter threadbar.• Projects that currently have 25 mm and 32 mm threaded bar included could be redesigned to use 28 mm or 40 mm threadbar instead. Project engineers could also opt to over-specify threadbar i.e. substitute 28 mm directly for 25 mm where spacing allowed – similarly for 40 mm threadbar and 32 mm threadbar.• To produce the exemption goods, Liberty Steel would require:<ul style="list-style-type: none">○ Technical drawings from the customer, from which it would precision machine finishing rolls to the required thread profile;○ Procurement of branding rolls and rolling-machining tips specific to the bar design.<p>A number of weeks would be required for roll design and procurement of the machining tips and machining of the rolls. Once such initial set-up modifications have been made, ongoing production and supply of the exemption goods would be pursuant to Liberty Steel's usual rolling cycle. This would be approximately 8 weeks after set-up to supply the goods with ACRS accreditation.</p>• As orders for the 28 mm and 40 mm threadbar are considered a "non-standard", a minimum order rolling quantity of 100 tonne is typically required to ensure the product is commercially viable to produce and handle. |
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Further submissions	
	<p>Submission received 19 June 2019</p> <ul style="list-style-type: none"> • Yield point will differ for each different diameter of rebar, as a larger cross section will require more force before it breaks during a tensile strength test. However, the minimum yield strength (or minimum yield stress) will not differ. For the goods, the minimum yield strength is appropriate characteristic for comparison, which in this case is 500MPa, which will not differ between diameters. • Absent accessories shown with imported threadbar in submissions from the applicant, both threadbar and rebar are very similar in appearance and have the same chemical and mechanical properties. • There is a risk that import officials will not be able to verify whether imports are rebar or threadbar. Rib patterns on threadbar or rebar are not defined by AS/NZS4671. The range of different rib patterns complicates the assessment of whether imported bar is threaded or not.

4.2 EX0072 – fully threaded prestressing steel threadbar

Applicant claims	Australian industry response
<ul style="list-style-type: none"> • There are no Australian manufacturers of fully threaded prestressing steel threadbar with diameters from 15 mm to 75 mm and yield strengths of between 885 MPa to 1100 MPa. • Rib geometry for threadbar is completely different from steel reinforcing bar. It is a continuously rolled coarse thread onto which steel nuts and couplers can be screwed anywhere along the entire length of the threadbar. This is impossible with standard stock reinforcing bars as they are not threaded. 	<ul style="list-style-type: none"> • Liberty Steel produces Y1100H formwork bar with the following characteristics: <ul style="list-style-type: none"> ○ Manufactured in accordance with <i>Euronorm Standard prEN 10138-4 Prestressing steels – Part 4: Bars</i> ○ Minimum Yield Strength is 900 MPa ○ Ultimate Tensile Strength is 1100 to 1265 MPa ○ Bar size of 15 mm and 20 mm in standard offer.

<ul style="list-style-type: none"> • Threadbar can be readily modified on site because the continuous thread allows couplers and joiners to be used to extend the bars and for end anchorage such as nuts and plates to be installed at any position along the threadbar. • Design engineers specify fully threaded prestressing steel threadbar instead of threadbar with a grade strength of 500N because of the higher maximum yield strength. • Liberty Steel produces a reinforcing steel grade 500 MPa threadbar called Reidbar in 16, 20, 25 & 32 mm diameters. • Liberty Steel does not hold an ACRS certificate for prestressing steel threadbar. 	<ul style="list-style-type: none"> • The exemption goods description submitted by the applicant does not fully clarify the specifications for which exemption is being sought. The “grade strength of 885 MPa to 1100 MPa” does not reference which “strength” is being referenced. On the assumption that the 885 MPa references a minimum yield strength requirement, the Y1100H formwork bar exceeds this requirement with a minimum of 900 MPa. Similarly based on the assumption that grade strength 1100 MPa referenced in the exemption goods description refers to an Ultimate Tensile Strength (UTS) requirement, grade Y1100H meets the requirement, having a range of UTS specified as 1100 to 1265 MPa. • Liberty Steel notes that the application seeks exemptions for diameters including over 50 mm, which are not the goods to which the current anti-dumping measures apply. • Liberty Steel contacted the applicant seeking an opportunity to quote and offer to sell and supply to the applicant the exemption goods in diameters from 15 mm to 50 mm, which was it claims was rejected.
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Further submissions following Commission request for further information

<ul style="list-style-type: none"> • The applicant acknowledges that Liberty Steel claims its 15 mm and 20 mm diameter form-tie threaded bar is equivalent to the exemption goods in the same diameter. However, the applicant considers its application remains applicable in respect of post-tensioning threadbar of larger diameters (26.5, 32, 36, 40 and 50 mm). 	<ul style="list-style-type: none"> • To produce the exemption goods in larger diameters (for example, 26.5 mm diameter), Liberty Steel would require: <ul style="list-style-type: none"> ○ Technical drawings from the customer, from which it would precision machine finishing rolls to the required thread profile; ○ Procurement of branding rolls and rolling-machining tips specific to the bar design.
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	<p>A number of weeks would be required for roll design and procurement of the machining tips and machining of the rolls. Once such initial set-up modifications have been made, ongoing production and supply of the exemption goods would be pursuant to Liberty Steel's usual rolling cycle.</p> <ul style="list-style-type: none">• ACRS accreditation is not required for the exemption goods as it is not produced to the AS/NZ4671 or AS/NZ4672 standard.
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5. The Commission’s assessment – like or directly competitive goods offered for sale in Australia

5.1 Finding

The Commission has made the following findings on whether like or directly competitive goods to the exemption goods are offered for sale in Australia:

Exemption Good	Finding
EX0070 – 40 mm diameter threadbar	The Commission has found that 40 mm diameter threadbar, being like goods, is offered for sale (but not currently produced) by Australian industry.
EX0071 – 28 mm diameter threadbar	The Commission has found that: <ul style="list-style-type: none"> • 28 mm diameter threadbar, being like goods, is offered for sale (but not currently produced) by Australian industry; and • 32 mm diameter threadbar, being directly competitive goods, is offered for sale by Australian industry.
EX0072 – Fully threaded prestressing steel threadbar	The Commission has found that: <ul style="list-style-type: none"> • 15 mm and 20 mm diameter fully threaded prestressing steel threadbar, being like goods, is offered for sale by Australian industry; • fully threaded prestressing steel threadbar at diameters greater than 20 mm and less than or equal to 50 mm, being like goods, is offered for sale (but not currently produced) by Australia industry; and • fully threaded prestressing steel threadbar with diameters over 50 mm is not subject to measures and therefore is not the goods.

The Commission’s analysis is provided in sections 5.2 and 5.3 below.

5.2 EX0070 and EX0071 – Like or directly competitive goods offered for sale in Australia

5.2.1 Directly competitive goods

The applicant submits that there are no Australian manufacturers of the exemption goods, being threadbar in grade 500N with diameters of 40 mm (for EX0070) and 28 mm (for EX0071).

Liberty Steel submits that deformed bar in straight lengths, grade 500N with nominal diameters of 40 mm and 28 mm is produced in Australia and is directly competitive to the exemption goods.

Liberty Steel further submits that domestically produced 25 mm and 32 mm diameter threadbar directly competes with the exemption goods.

The Commission has examined the evidence presented in the application, in the Liberty Steel questionnaire response and from further submissions by the applicant and Liberty Steel in response to the Commission's request for further information (as discussed in section 4.1 above) and has made the following findings:

Exemption Good	Product claimed to be directly competitive to the exemption goods	Finding
EX0070 – 40 mm diameter threadbar	40 mm diameter rebar in straight lengths	Not directly competitive
	32 mm diameter threadbar	Not directly competitive
EX0071 – 28 mm diameter threadbar	28 mm diameter rebar in straight lengths	Not directly competitive
	25 mm diameter threadbar	Not directly competitive
	32 mm diameter threadbar	Directly competitive

The Commission's assessment is provided below.

Is rebar in straight lengths directly competitive to threadbar?

Factor	Parties' claims	Commission's assessment
Physical likeness	<p>The applicant submits that rib geometry for threadbar (regardless of diameter) is different from rebar as it allows steel nuts and couplers to be screwed along its length.</p> <p>Liberty Steel submits both threadbar and rebar present with a deformed rib pattern introduced during the hot-rolling process, i.e. both are deformed bar in straight lengths.</p>	<p>The Commission is satisfied that both threadbar and rebar present as deformed bar in straight lengths, with the same size, shape and nominal (respective) diameters.</p> <p>The Commission is also satisfied that, absent any accessories available to threadbar, threadbar and rebar are very similar in appearance.</p> <p>However, the Commission accepts that threadbar has a different finish compared to rebar, being a continuous thread. This thread allows nuts and couplers to be screwed along its length. This is not possible with standard rebar.</p> <p>As such, the Commission considers that threadbar and rebar are not physically alike.</p>

Factor	Parties' claims	Commission's assessment
Commercial likeness	<p>The applicant submits that design engineers specify the use of threadbar instead of rebar because machining a thread on later reduces the strength of the bar and adds to lead-time. Therefore threadbar cannot be substituted for rebar.</p> <p>Liberty Steel submits both threadbar and rebar are sold for concrete reinforcing purposes.</p>	<p>Given that users specify the use of threadbar in certain applications, the Commission is satisfied there are commercial differences between threadbar and rebar, with a preference for customers to use threadbar in certain applications.</p>
Functional likeness	<p>The applicant submits that threadbar is used in ground anchoring applications such as for rock bolting/anchoring as well as soil nailing and that in such variable ground conditions, the length of threadbar can readily be modified on site.</p> <p>Liberty Steel submits that threadbar and rebar are functionally alike as both:</p> <ul style="list-style-type: none"> • are produced to grade 500N; • are certified by ACRS as "Hot Rolled Steel Reinforcing Bar" meeting the requirements of AS/NZS4671; • are in straight lengths; and • are capable of use in concrete reinforcing applications. <p>Liberty Steel also notes that the ACRS certificate for AS/NZS4671 under which Millcon produces threadbar is similar to that held by Liberty Steel.</p>	<p>The Commission is satisfied that both threadbar and rebar share the same characteristics as listed by Liberty Steel in its questionnaire response. However, it notes that ACRS certificates provided for Liberty Steel and Millcon both have separate listings for thread bar and ribbed bar (i.e. deformed bar), indicating there is a difference between the two types of bar.</p> <p>In Investigation 264 the Commission verified Millcon's exports of rebar to Australia. In its verification report, the visit team found that Millcon's threaded bar product, "Onebar", had the same general construction end uses as regular rebar but the thread allows splicing anywhere along the rebar, avoiding the need for welding. The visit team concluded Onebar was to be included as the goods under consideration.²¹</p> <p>For the purposes of the current application, the Commission considers that the findings in Investigation 264 relating to Onebar can be distinguished. Threadbar and rebar may be interchangeable in certain circumstances, but not necessarily in all circumstances, such as those outlined in the present applications.</p>

²¹ Millcon Steel Public Company Ltd Verification Report – Case 264 Public Record Item No. 062

Factor	Parties' claims	Commission's assessment
		The Commission therefore considers that threadbar and rebar may have different functions.
Production likeness	<p>Liberty Steel submits that both threadbar and rebar are produced using a hot rolling process, requiring no further processing for sale. Both are manufactured to the same chemical and mechanical requirements of AS/NZS 4671.</p> <p>No submission was made by the applicant on the production process of threadbar.</p>	<p>In Investigation 264, the Commission found that Onebar is manufactured by a slight alteration to the finishing rolling process.²²</p> <p>After considering the information in the Liberty Steel questionnaire response and from its further submission, and reviewing the Commission's previous findings from Investigation 264, the Commission is satisfied that both threadbar and rebar are produced using the same raw materials and production equipment, however, there is a slight alteration between the finishing rolling process for the production of rebar and threadbar involving branding rolls specific to the threadbar.</p>

Is 25mm and 32mm threadbar directly competitive to 28 mm and 40 mm threadbar?

As part of its questionnaire response, Liberty Steel submits it produces threadbar of grade 500N in 25 mm and 32 mm diameters.

The applicant submits that threadbar produced at 25 mm and 32 mm diameters is not substitutable for 28 mm and 40 mm threadbar due to the smaller cross section and lower yield load. The minimum yield load of 25 mm and 32 mm diameter threadbar is 245.5kN and 402kN respectively, compared to 307.5kN and 630kN for 28 mm and 40 mm diameter threadbar.²³

Liberty Steel submits that the appropriate characteristic when comparing the different diameters of threadbar is minimum yield strength (or minimum yield stress), which is measured in mega pascals (MPa). Both the goods and the exemption goods have the same minimum yield strength of 500 MPa (as indicated by being grade 500N). The differences in yield loads by the applicant (referred to Liberty Steel as "yield points") are due to the different diameters of the goods, with larger diameters having larger cross sections, which can take more force before breaking.

Liberty Steel further submits that projects that currently have 25 mm and 32 mm threaded bar specified could be redesigned to use 28 mm or 40 mm threadbar instead. Project engineers could also opt to over-specify threadbar, i.e. by substituting 28 mm diameter threadbar directly for 25 mm where spacing allowed, and similarly for 40 mm threadbar and 32 mm threadbar.

²² Millcon Steel Public Company Ltd Verification Report, page 11

²³ See EX0070 and EX0071 Public Record Item No. 007

The Commission has examined the evidence presented in the application, in the Liberty Steel questionnaire response and the further submissions by both the applicant and Liberty Steel.

The Commission is satisfied that 25 mm and 32 mm diameter threadbar produced by Liberty Steel differs to the exemption goods in respect of diameter and minimum yield loads. The goods are otherwise alike physically, presenting as straight steel bar with a continuously rolled course thread pattern introduced during the hot-rolling process, have the same minimum yield strength and are produced to the AS/NZS4671 standard.

The Commission is satisfied that all diameters of threadbar are used for concrete reinforcing and in ground applications such as rock bolting/anchoring as well as soil nailing and can be readily modified on site.

The Commission notes that when providing details of threadbar (as well as rebar), both domestic and overseas manufacturers specify yield load, in addition to yield strength. The Commission considers that, while not the primary characteristic for comparison between the various diameters, yield load is a distinguishing characteristic.

Notwithstanding that 25 mm and 32 mm diameter threadbar is alike in many respects to 40 mm rebar, the Commission considers that neither 25 mm nor 32 mm threadbar is directly competitive to 40 mm threadbar, due to the significantly lower minimum yield point of 25 mm and 32 mm threadbar when compared to 40 mm threadbar – being 61 per cent and 36 per cent weaker, respectively.

The Commission does not consider that 25 mm threadbar is directly competitive to 28 mm threadbar, due to its lower minimum yield load – being 20 per cent weaker than 28 mm diameter threadbar.

However, the Commission considers that 32 mm threadbar is directly competitive to 28 mm threadbar, as it has a higher yield load than 28 mm threadbar, and noting the applicant's concerns that the weaker strength of smaller diameter threadbar is the reason why smaller diameters cannot be used as a substitute.

5.2.2 Like goods

While Liberty Steel submits that it produces goods directly competitive to the exemption goods, i.e. deformed bar in straight lengths with nominal diameters of 40 mm and 28 mm, it further submits that Liberty Steel is able to produce like goods of 40 mm and 28 mm diameter bar with a continuous thread profile, i.e. threadbar in the diameters sought by the applicant. Liberty Steel makes this contention based on its existing capacity to produce rebar of grade 500N in 28 mm and 40 mm diameters and threadbar of grade 500N in 25 mm and 32 mm diameters.

The Commission has examined the evidence presented in the application, in the Liberty Steel questionnaire response and from further submissions by the applicant and Liberty Steel. The Commission considers that like goods to the exemption goods, while not currently produced by Australian industry, are offered for sale in Australia.

The Commission has made its assessment based on the following:

- To produce like goods, Liberty Steel submits that all that is required is a modification to the rolls at one of its mills and an order to supply the goods; and
- Liberty Steel contacted the applicant seeking an opportunity to quote and offer to sell and supply the exemption goods to the applicant.

The Commission accepts that Liberty Steel is able to produce 28 mm and 40 mm diameter threadbar, subject to it receiving an order to supply such goods and making the necessary modifications to its rolling mill. A discussion of the modifications required is provided in section 8.1 of this report.

5.3 EX0072 – Like or directly competitive goods offered for sale in Australia

5.3.1 Like goods

In its application, the applicant stated that there are no Australian manufacturers of fully threaded prestressing steel threadbar with diameters from 15 mm to 75 mm and yield loads of between 885 MPa to 1100 MPa.

Liberty Steel submits that its Y1100H formwork bar, which it produces in 15 mm and 20 mm diameters, is identical to the exemption goods.

In a later submission to the Commission, the applicant acknowledges that 15 mm and 20 mm diameter formwork bar produced by Liberty Steel is equivalent to the exemption goods in the same diameters.

Notwithstanding the above, the applicant submits that its application remains on foot for fully threaded prestressing steel threadbar in larger diameters, in particular 26.5, 32, 36, 40 and 50 mm.

Liberty Steel submits that, other than in respect of the exemption goods it produces in 15 mm and 20 mm diameters, it is capable of producing the exemption goods.

No submission was received regarding goods which may be directly competitive to the exemption goods.

The Commission has examined the evidence presented in the application, in the Liberty Steel questionnaire response and the further submissions by both the applicant and Liberty Steel in response to the Commission's request for further information, as discussed in section 4.2 above. The Commission considers that:

- fully threaded prestressing steel threadbar with diameters over 50 mm is not subject to measures and therefore is not the goods;²⁴
- like goods to the exemption goods are offered for sale in Australia at 15 mm and 20 mm diameters; and
- like or directly competitive goods to the exemption goods at diameters greater than 20 mm and less than or equal to 50 mm, while not currently produced by Australian industry, are offered for sale in Australia.

The Commission has made its assessment based on the following:

- To produce like goods, Liberty Steel submits that all that is required is a modification to the rolls at one of its mills and an order to supply the goods; and

²⁴ Accordingly the Commission has not examined threadbar of over 50mm diameter further in this inquiry.

- Liberty Steel contacted the applicant seeking an opportunity to quote and offer to sell and supply the exemption goods at diameters from 15 mm to 50 mm to the applicant.

The Commission accepts that Liberty Steel is able to produce fully threaded prestressing steel threadbar with diameters of 15 mm and 20 mm, and from greater than 20 mm and less than or equal to 50 mm subject to it receiving an order to supply such goods and making the necessary modifications to its rolling mill. A discussion of the modifications required is provided in section 8.3 of this report.

5.4 Conclusion

In light of the above, the Commission has found that:

- EX0070 – the Australian industry does offer for sale like goods (which are not currently produced) to 40 mm threadbar;
- EX0071 – the Australian industry does offer for sale like goods (which are not currently produced) and directly competitive goods to 28 mm threadbar; and
- EX0072 – the Australian industry does offer for sale like goods (at some diameters which are currently produced and others which are not) to fully threaded prestressing steel threadbar.

6. To all purchasers on equal terms under like conditions

The applicant did not make a submission regarding, if the goods are offered, whether the goods are offered for sale to all purchasers under like conditions. Its application relied primarily on its claim that the exemption goods are not offered by Australian industry.

Liberty Steel in its questionnaire response and further submissions made a number of claims in respect of whether the goods are offered for sale to all purchasers under like conditions. These claims are set out below.

6.1 EX0070 and EX0071 – 40 mm and 28 mm diameter threadbar

Liberty Steel submits that it has not received an order for a commercial quantity of the exemption goods. If a customer requires a certain bar size, grade and rib profile which is not offered as part of Liberty Steel's suite of standard products, Liberty Steel will routinely work with the customer to produce a product that meets their requirements. Liberty Steel submits that the applicant has not to date approached Liberty Steel to supply the exemption goods.

Liberty Steel contacted the applicant seeking an opportunity to quote and offer to sell and supply the exemption goods to the applicant, which it claims was rejected.

If Liberty Steel were to receive an order from the applicant to supply straight rebar in 40 mm and 28 mm diameters, which it submits are directly competitive to the exemption goods, they would be offered on the same terms and conditions of sale that it offers all its customers for straight rebar.

If Liberty Steel were to receive an order from the applicant to provide identical goods to the exemption goods, they would be offered on the same terms and conditions of sale that it offers all its customers for non-standard products. This would require a minimum order quantity of 100 tonnes and would be produced according to the mills rolling cycle.

6.2 EX0072 – fully threaded prestressing steel threadbar

Liberty Steel submits that the exemption goods in 15 mm and 20 mm diameters are available to all purchasers on equal terms, including stocking, grade, delivery and payment terms (apart from differences in price based on sales volumes).

Liberty Steel states it is capable of producing goods that are identical to, or like or directly competitive to the exemption goods, to the extent it has not produced and sold in Australia products that have a diameter other than 15 mm or 20 mm.

If a customer requires a certain bar size, grade or rib profile which is not offered as part of Liberty Steel's suite of standard products, Liberty Steel will routinely work with the customer to produce a product that meets their requirements. The applicant to this exemption application has not to date approached Liberty Steel to supply the goods they are currently importing.

In terms of other sizes of the exemption goods the applicant is importing in diameters greater than 20 mm to 50 mm, Liberty Steel has contacted the applicant seeking an opportunity to quote and offer to sell and supply the exemption goods to the applicant, which it claims was rejected.

7. The Commission’s assessment – to all purchasers on equal terms under like conditions

7.1 Finding

As the Commission found that like or directly competitive goods to the exemption goods are offered for sale in Australia (see section 5.1 above), the Commission is required to consider whether such goods are offered for sale in Australia “to all purchasers on equal terms under like conditions”.

The Commission has found that like or directly competitive goods to the exemption goods for each application are offered for sale in Australia to all purchasers on equal terms under like conditions.

The Commission’s analysis is provided in sections 7.2 and 7.3 below.

7.2 EX0070 and EX0071 – To all purchasers on equal terms under like conditions

No submission was made by the applicant in respect of whether 40 mm diameter threadbar and 28 mm diameter threadbar is offered “to all purchasers on equal terms under like conditions”.

After examining the evidence presented by Liberty Steel in its questionnaire response and further submission, the Commission considers that Liberty Steel offers threadbar at 28, 32 and 40 mm diameters (being goods found by the Commission to be like or directly competitive goods to the exemption goods, as discussed in section 5.2) for sale to all purchasers based on the terms of sale in its Product and Availability Guide²⁵ and its Non-Standard Price Schedule.²⁶ The Commission has seen no evidence to suggest that different terms would apply to different purchasers.

Accordingly, the Commission is satisfied that the exemption goods are offered for sale in Australia to all purchasers on equal terms under like conditions.

7.3 EX0072 – To all purchasers on equal terms under like conditions

No submission was made by the applicant in respect of whether the exemption goods are offered “to all purchasers on equal terms under like conditions”.

Liberty Steel has provided as part of its questionnaire response examples of agreements for the supply of goods, which includes Y1100H formwork bar in 15 mm and 20 mm diameters which were found by the Commission to be like or directly competitive goods to the exemption goods, as discussed in section 5.3. Liberty Steel states in its questionnaire response that these agreements indicate the likely terms of sale for the goods at all diameters.

The Commission has reviewed these agreements and notes that Liberty Steel’s Standard Terms and Conditions for Sale apply to each agreement.²⁷ The Commission

²⁵ See Confidential Attachment A to EX0070 and EX0071 Public Record Item No. 8

²⁶ See Confidential Attachment B to EX0070 and EX0071 Public Record Item No. 8

²⁷ Available at <https://www.libertygfg.com/terms-and-conditions/>

also notes that the specific order details in each agreement are broadly consistent and Liberty Steel's submission that the exemption goods in 15 mm and 20 mm diameters are available to all purchasers on equal terms, including stocking, grade, delivery and payment terms (apart from differences in price based on sales volumes).

From the evidence presented by Liberty Steel, the Commission considers that Liberty Steel offers these goods for sale to all purchasers based on its Standard Terms and Conditions for Sale. The Commission has seen no evidence to suggest that different terms would apply to different purchasers.

Accordingly, the Commission is satisfied that the exemption goods are offered for sale in Australia to all purchasers on equal terms under like conditions.

7.4 Conclusion

In light of the above, the Commission has found that:

- EX0070 – the Australian industry does offer for sale like goods (which are not currently produced) to 40 mm threadbar, to all purchasers on equal terms under like conditions;
- EX0071 – the Australian industry does offer for sale like goods (which are not currently produced) and directly competitive goods to 28 mm threadbar, to all purchasers on equal terms under like conditions; and
- EX0072 – the Australian industry does offer for sale like goods (at some diameters which are currently produced and others which are not) to fully threaded prestressing steel threadbar, to all purchasers on equal terms under like conditions.

8. Having regard to the custom and usage of trade

8.1 Custom and usage of trade

From its previous investigations into the supply of rebar to the Australian market, the Commission understands the following process reflects the usual custom and trade:

- For stock on hand, which would typically include various diameters of straight rebar, orders are despatched within a few days of being received;
- For non-standard products, or where stock is not on hand, lead times for supply are longer and subject to the usual rolling cycle; and
- Threadbar (of various diameters) is available at minimum orders quantities of approximately 25 tonnes.²⁸

8.2 EX0070 and EX0071 – steel threadbar grade strength 500N at 28 mm and 40 mm

8.2.1 Directly competitive goods

As discussed in section 5.2.1 above, the Commission found there were no directly competitive goods to 40 mm diameter threadbar offered for sale by Australian industry (like goods to 40 mm threadbar is discussed below in section 8.2.2). However, the Commission found that 32 mm diameter threadbar is directly competitive to 28 mm diameter threadbar and is offered for sale by Australian industry.

The Commission understands that 32 mm diameter threadbar is offered by Liberty Steel as a non-standard product and would therefore be available subject to the usual rolling cycle.

8.2.2 Like goods

Liberty Steel submits that, to produce and supply threadbar in 28 mm and 40 mm diameters, which the Commission has found to be like goods to the exemption goods, it would be required to modify the rolls at one of its mills. Liberty Steel have advised that such a modification would require:

- detailed technical drawings to be provided by the customer;
- procurement of branding rolls and roll-machining tips specific to the required rib profile; and
- precision machining of finishing rolls (Liberty Steel already has rolls available for machining).

Liberty Steel estimated a number of weeks²⁹ would be required for the roll design, procurement of the machining tips and machining of the rolls to be completed.

²⁸ Confidential Attachment A to this report.

²⁹ EX0070 and EX0071 Liberty Steel Letter to the Commission – Confidential version. Public record version is available at EX0070 and EX0071 Public Record No. 008

Once such initial set-up modifications have been made, ongoing production and supply of the exemption goods would be pursuant to Liberty Steel's usual rolling cycle.

Liberty Steel have advised that they would seek ACRS accreditation for such goods. Factoring in obtaining the accreditation, it submits that the time to supply the exemption goods once modifications have been completed is approximately eight weeks.

Liberty Steel have also advised that, as orders for 28 mm and 40 mm diameter threadbar are considered a "non-standard", a minimum order quantity of 100 tonnes is typically required to ensure the product is commercially viable to produce and handle.

8.3 EX0072 – fully threaded prestressing steel threadbar

8.3.1 Like goods

Liberty Steel submits like goods to the exemption goods at 15 mm and 20 mm diameters are a standard product offered for sale by Liberty Steel.

Liberty Steel submits that, to produce and supply like goods to the exemption goods at diameters greater than 20 mm and less than or equal to 50 mm, it would be required to modify the rolls at one of its mills.

The Commission notes Liberty Steel's submission that the application does not describe in sufficient detail the specifications for the exemption goods and that, in order to respond to the Commission's request for further information, it has based its response on producing the exemption goods at a 26.5 mm diameter. The Commission considers that the process described by Liberty Steel for modifying its rolling mill would be consistent at all relevant diameters.

Liberty Steel have advised that such a modification would require:

- detailed technical drawings to be provided by the customer;
- procurement of branding rolls and roll-machining tips specific to the required rib profile; and
- precision machining of finishing rolls.

Liberty Steel estimated a number of weeks³⁰ would be required for the roll design, procurement of the machining tips and machining of the rolls to be completed.

Once such initial set-up modifications have been made, ongoing production and supply of the exemption goods would be pursuant to Liberty Steel's usual rolling cycle.

Liberty Steel have advised that ACRS accreditation would not be sought as the exemption goods are not produced to the AS/NZ4671 or AS/NZ4672 standard.

³⁰ EX0072 Liberty Steel Letter to the Commission – Confidential version. Public record version is available at EX0072 Public Record No. 008

9. The Commission’s assessment – Having regard to the custom and usage of trade

9.1 Finding

As the Commission has found that like or directly competitive goods to the exemption goods are offered for sale in Australia, and that these goods are offered to all purchasers on equal terms under like conditions, the Commission is required to consider whether the goods are offered for sale “having regard to the custom and usage of trade”.

The Commission has made the following findings on whether like or directly competitive goods to the exemption goods are offered for sale in Australia, having regard to the custom and usage of trade:

Exemption Good	Finding
EX0070 – 40 mm diameter threadbar	The Commission has found that 40 mm diameter threadbar, being like goods, is <u>not</u> offered for sale by Australian industry, having regard to the custom and usage of trade.
EX0071 – 28 mm diameter threadbar	The Commission has found that: <ul style="list-style-type: none"> • 28 mm diameter threadbar, being like goods, is <u>not</u> offered for sale by Australian industry, having regard to the custom and usage of trade; and • 32 mm diameter threadbar, being directly competitive goods, is offered for sale by Australian industry, having regard to the custom and usage of trade.
EX0072 – Fully threaded prestressing steel threadbar	The Commission has found that: <ul style="list-style-type: none"> • 15 mm and 20 mm diameter fully threaded prestressing steel threadbar, being like goods, is offered for sale by Australian industry, having regard to the custom and usage of trade; • fully threaded prestressing steel threadbar at diameters greater than 20 mm and less than or equal to 50 mm, being like goods, is <u>not</u> offered for sale by Australian industry, having regard to the custom and usage of trade.

The Commission’s analysis is provided in sections 9.2 and 9.3 below.

9.2 EX0070 and EX0071 – Having regard to the custom and usage of trade

9.2.1 Directly competitive goods

Having regard to the characteristics of the offer of 32 mm diameter threadbar by Liberty Steel, as discussed in section 8.2.1 above, the Commission considers it is offered for sale

consistent with the usual custom and trade conditions for the sale of such goods in Australia.

9.2.2 Like goods

In respect of 40 mm and 28 mm diameter threadbar, which are offered for sale by Australian industry, but not currently produced, the Commission has considered the following characteristics (as discussed in section 8.2.2) of such an offer:

- the requirements on the customer to provide technical drawings when placing an order;
- the level of modifications required by Liberty Steel to its rolling mill in order to produce the goods;
- the timeframe between Liberty Steel receiving an order for such goods and being in a position to supply those goods, including obtaining ACRS accreditation; and
- the minimum quantity order requirements.

The Commission considers that these characteristics are not consistent with the usual custom and trade conditions for the sale of such goods in Australia.

Accordingly, the Commission is not satisfied that the exemption goods are offered for sale in Australia having regard to the custom and usage of trade.

The Commission notes Liberty Steel's submission in the questionnaire response that it sought an opportunity to quote and offer to supply the exemption goods to the applicant. However, in light of the above, the Commission does not consider that the offer referred to by Liberty Steel was an offer reflecting the usual custom and trade for such goods.

9.3 EX0072 – Having regard to the custom and usage of trade

9.3.1 Like goods

In respect of 15 mm and 20 mm diameter fully threaded prestressing steel threadbar, which is offered for sale by Australian industry, the Commission has seen no evidence to suggest that Liberty Steel does not offer like goods in a manner consistent with the usual custom and trade for the sale of such goods.

In respect of fully threaded prestressing steel threadbar at diameters greater than 20 mm and less than or equal to 50 mm, which is offered for sale by Australian industry but not currently produced, the Commission has considered the following characteristics (as discussed in section 8.3.1) of such an offer:

- the requirements on the customer to provide technical drawings when placing an order;
- the level of modifications required by Liberty Steel to its rolling mill in order to produce the goods;
- the timeframe between Liberty Steel receiving an order for such goods and being in a position to supply those goods; and
- the minimum quantity order requirements.

The Commission considers that these characteristics are not consistent with the usual custom and trade conditions for the sale of such goods in Australia.

Accordingly, the Commission is not satisfied that fully threaded prestressing steel threadbar at diameters greater than 20 mm and less than or equal to 50 mm are offered for sale in Australia having regard to the custom and usage of trade.

The Commission notes Liberty Steel's submission in the questionnaire response that it sought an opportunity to quote and offer to supply the exemption goods to the applicant. However, in light of the above, the Commission does not consider that the offer referred to by Liberty Steel was an offer reflecting the usual custom and trade for such goods.

9.4 Conclusion

In light of the above, the Commission has found that:

- Australian industry does not offer for sale like or directly competitive goods to 40 mm threadbar, being the exemption goods for exemption inquiry EX0070, having regard to the custom and usage of trade;
- the Australian industry does offer for sale like or directly competitive goods to 28 mm threadbar, being the exemption goods for exemption inquiry EX0071, having regard to the custom and usage of trade;
- the Australian industry does offer for sale like or directly competitive goods to fully threaded prestressing steel threadbar at diameters of 15 mm and 20 mm, being some of the exemption goods for exemption inquiry EX0072, having regard to the custom and usage of trade; and
- the Australian industry does not offer for sale like or directly competitive goods to fully threaded prestressing steel threadbar at diameters of greater than 20 mm and less than or equal to 50 mm, being some of the exemption goods for exemption inquiry EX0072, having regard to the custom and usage of trade.

10. Competition with domestic goods

10.1 Submission by Australian industry

Liberty Steel submits that 40 mm and 28 mm diameter threadbar, if granted an exemption, will directly compete with 40 mm and 28 mm diameter rebar as well as 25 mm and 32 mm diameter threadbar produced by Australian industry.

It submits that both rebar and threadbar are used in steel reinforcing applications, by virtue of the deformations on each type of bar which allow concrete to adhere to the bar. Accordingly, 40 mm and 28 mm diameter threadbar could be used in place of rebar in the same diameters.

Liberty Steel further submits that projects which would have specified 25 mm or 32 mm diameter threadbar could be redesigned to use 28 mm and 40 mm diameter threadbar.

10.2 Consideration by the Commission

The Commission is satisfied that threadbar could be substituted for rebar of the same diameter in steel reinforcing applications.

The differences between threadbar and rebar discussed in section 5 conclude that rebar is not substitutable for threadbar where threadbar is required due to its particular characteristics (for example, where coupling is required). However, the characteristics which differentiate threadbar from rebar do not preclude threadbar from being used where rebar is required.

However, the substitutability of the exemption goods for other domestically produced goods is not an element of the legislative test in subsection 8(7)(a). The test requires the Minister to be satisfied that like or directly competitive goods are not offered in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

As discussed above, the Commission is satisfied that the requirements of subsection 8(7)(a) have been met in respect of 40 mm diameter threadbar and fully threaded prestressing steel threadbar at diameters of greater than 20 mm and less than or equal to 50 mm. In coming to this satisfaction, it is not required to consider the substitutability of the exemption goods for other domestically produced goods.

11. Identification of the Exemption Goods

11.1 Submission by Australian industry

Liberty Steel submits that the ability of import clearance officers to verify whether an imported deformed bar is threadbar or not (and therefore, whether duty may be payable or not) is a significant area of concern, due to the similarity in appearance between the different forms of bar. Rib patterns on hot-rolled steel bar, threaded or otherwise, are not defined in AS/NZS4671. This complicates the assessment of whether a bar has a continuous thread.

In its submission, Liberty Steel provided photographic evidence of examples of 20 mm diameter threadbar and rebar.³¹

11.2 Consideration by the Commission

In its assessment of the exemption goods in section 5, the Commission was satisfied that both threadbar and rebar present as deformed bar in straight lengths, with the same size and shape. Absent any accessories available to threadbar, threadbar and rebar are very similar in appearance.

However, despite the similarities in appearance, the Commission accepts that threadbar has a different finish compared to rebar, being a continuous thread which allows nuts and couplers to be screwed along its length.

While the Commission understands Liberty Steel's submission, the difficulty in the implementation of any exemption is not a consideration under subsection 8(7)(a). The Commission notes the Australian Border Force (ABF) is responsible for enforcement of measures and suspected non-compliance can be reported to Border Watch through the ABF website.

In the present circumstances, the Commission is satisfied that the requirements of subsection 8(7)(a) have been met in respect of 40 mm diameter threadbar and fully threaded prestressing steel threadbar at diameters of greater than 20 mm and less than or equal to 50 mm. In the circumstances, the Commission notes the implementation concerns raised by Liberty Steel, but considers the exemption should be granted consistent with the legislative criteria.

12. Recommendation

12.1 Recommendation for each application

12.1.1 EX0070 – 40 mm threadbar

Based on the Commission's examination of the application and submissions made to the inquiry, the Commissioner considers that like or directly competitive goods to the exemption goods are not offered for sale in Australia, having regard to the custom and usage of trade of such goods.

Accordingly, the Commissioner recommends that the Minister exercise their discretion to exempt the exemption goods, as described below, from interim dumping duty and dumping duty in accordance with subsection 8(7)(a) of the Dumping Duty Act.

Exemption goods description:

Hot-rolled steel reinforcing bar with a continuous thread, commonly identified as 'threadbar' or 'threaded bar', in straight lengths, complying with Australian/New Zealand Standard AS/NZS4671, grade 500N, with a 40 mm diameter.

12.1.2 EX0071 – 28 mm threadbar

Based on the Commission's examination of the application and submissions made to the inquiry, the Commissioner considers that like or directly competitive goods to the exemption goods are offered for sale in Australia and that such goods are offered to all

³¹ See EX0070, EX0071 and EX0072 Public Record No. 009

purchasers on equal terms under like conditions, having regard to the custom and usage of trade.

Accordingly, the Commissioner recommends that the Minister not exempt the exemption goods from the duties.

12.1.3 EX0072 – fully threaded prestressing steel threadbar

Based on the Commission's examination of the application and submissions made to the inquiry, the Commissioner considers that:

- like goods to the exemption goods, at diameters of 15 mm and 20 mm, are offered for sale in Australia and that such goods are offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade; and
- like or directly competitive goods to the exemption goods, at diameters greater than 20 mm and less than or equal to 50 mm, are not offered for sale in Australia, having regard to the custom and usage of trade.

Accordingly, the Commissioner recommends that the Minister:

- not exempt the exemption goods at 15 mm and 20 mm diameters from the duties; and
- exercise their discretion to exempt the exemption goods, as described below, from interim dumping duty and dumping duty in accordance with subsection 8(7)(a) of the Dumping Duty Act.

Exemption goods description:

Fully threaded hot-rolled prestressing steel reinforcing bar, in straight lengths, with a minimum yield strength of 885 MPa or greater, with a 26.5 mm, 32 mm, 36 mm, 40 mm or 50 mm diameter.

12.2 Effective date of exemption

12.2.1 EX0070 – 40 mm threadbar

The applicant's application for exemption, examined in this report, was made on 28 September 2018.

The timing in relation to the granting of an exemption is at the discretion of the Minister. It is the Commission's policy to recommend that an exemption is backdated to the date of the application, that is, to 28 September 2018.

12.2.2 EX0072 – fully threaded prestressing steel threadbar

The applicant's application for exemption, examined in this report, was made on 9 November 2018.

The timing in relation to the granting of an exemption is at the discretion of the Minister. It is the Commission's policy to recommend that an exemption is backdated to the date of the application, that is, to 9 November 2018.

Attachments

Confidential Attachment A – Imports of threadbar by consignment