

APPLICATION for REVIEW  
of  
Ministerial Decision  
to  
PUBLISH a DUMPING DUTY NOTICE  
on  
CASE No 254  
by  
SAHA THAI STEEL PIPE

Advisor Contact:

Email: [jack@itada.com.au](mailto:jack@itada.com.au) Phone: 61 459 212 702

M J Howard

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**Attachment 'A'**

ADN Notice No. 2015/36

ADN Notice No. 2015/66

**APPLICATION FOR REVIEW  
OF A DECISION BY THE MINISTER  
WHETHER TO PUBLISH  
A DUMPING DUTY NOTICE OR  
A COUNTERVAILING DUTY NOTICE**

**Anti-Dumping Review Panel c/o**  
Legal Services Branch Department of  
Industry and Science  
10 Binara Street  
Canberra City  
ACT 2601  
P: +61 2 6276 1781  
F: + 61 2 6213 6821  
E: [ADRP@industry.gov.au](mailto:ADRP@industry.gov.au)

## INFORMATION FOR PPLICANTS

### WHAT DECISIONS ARE REVIEWABLE BY THE ANTI-DUMPING REVIEW PANEL?

The role of the Anti-Dumping Review Panel (the ADRP) is to review certain decisions made by the Minister responsible for the Department of Industry and Science, or by the Anti-Dumping Commissioner (the Commissioner).

The ADRP may review decisions made by the Commissioner:

- to reject an application for dumping or countervailing measures
- to terminate an investigation into an application for dumping or countervailing measures
- to reject or terminate examination of an application for duty assessment, and
- to recommend to the Minister the refund of an amount of interim duty less than the amount contended in an application for duty assessment, or waiver of an amount over the amount of interim duty paid.

The ADRP may review decisions made by the Minister, as follows:

#### *Investigations:*

- to publish a dumping duty notice
- to publish a countervailing duty notice
- not to publish a dumping duty notice
- not to publish a countervailing duty notice

#### *Review inquiries, including decisions*

- to alter or revoke a dumping duty notice following a review inquiry
- to alter or revoke a countervailing duty notice following a review inquiry
- not to alter a dumping duty notice following a review inquiry
- not to alter a countervailing duty notice following a review inquiry
- that the terms of an undertaking are to remain unaltered
- that the terms of an undertaking are to be varied
- that an investigation is to be resumed
- that a person is to be released from the terms of an undertaking

#### *Continuation inquiries:*

- to secure the continuation of dumping measures following a continuation inquiry
- to secure the continuation of countervailing measures following a continuation inquiry
- not to secure the continuation of dumping measures following a continuation inquiry
- not to secure the continuation of countervailing measures following a

continuation inquiry.

*Anti-circumvention inquiries:*

- to alter a dumping duty notice following an anti-circumvention inquiry;
- to alter a countervailing duty notice following an anti-circumvention inquiry;
- not to alter a dumping duty notice following an anti-circumvention inquiry; and
- not to alter a countervailing duty notice following an anti-circumvention inquiry.

Before making a recommendation to the Minister, the ADRP may require the Commissioner to:

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within a specified time period.

The ADRP only has the power to make **recommendations to** the Minister to affirm the reviewable decision or to revoke the reviewable decision and substitute with a new decision. The ADRP has no power to revoke the Minister's decision or substitute another decision for the Minister's decision.

## **WHICH APPLICATION FORM SHOULD BE USED?**

It is essential that applications for review be lodged in accordance with the requirements of the *Customs Act 1901* (the Act). The ADRP does not have any discretion to accept an invalidly made application or an application that was lodged late.

Division 9 of Part XVB of the Act deals with reviews by the ADRP. Intending applicants should familiarise themselves with the relevant sections of the Act, and should also examine the explanatory brochure (available at [www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au)).

There are separate application forms for each category of reviewable decision made by the Commissioner, and for decisions made by the Minister. It is important for intending applicants to ensure that they use the correct form.

This is the form to be used when applying for ADRP review of a decision of the Minister whether to publish a dumping duty notice or countervailing duty notice (or both). It is approved by the Commissioner pursuant to s 269ZY of the Act.

## **WHO MAY APPLY FOR REVIEW OF A MINISTERIAL DECISION?**

Any interested party may lodge an application for review to the ADRP of a review of a ministerial decision. An “interested party” may be:

- if an application was made which led to the reviewable decision, the applicant
- a person representing the industry, or a portion of the industry, which produces the goods which are the subject of the reviewable decision
- a person directly concerned with the importation or exportation to Australia of the goods
- a person directly concerned with the production or manufacture of the goods
- a trade association, the majority of whose members are directly concerned with the production or manufacture, or the import or export of the goods to Australia, or
- the government of the country of origin or of export of the subject goods.

Intending applicants should refer to the definition of “interested party” in s 269ZX of the Act to establish whether they are eligible to apply.

## **WHEN MUST AN APPLICATION BE LODGED?**

An application for a review must be received within 30 days after a public notice of the reviewable decision was first published in a national Australian newspaper (s 269ZZD).

The application is taken as being made on the date upon which it is received by the ADRP after it has been properly made in accordance with the instructions under ‘Where and how should the application be made?’ (below).

## **WHAT INFORMATION MUST AN APPLICATION CONTAIN?**

An application should clearly and comprehensively set out the grounds on which the review is sought, and provide sufficient particulars to satisfy the ADRP that the Minister’s decision should be reviewed. It is not sufficient simply to request that a decision be reviewed.

The application should include a statement identifying what the applicant considers the correct or preferable decision should be, that may result from the grounds the applicant has raised in the application. There may be more than one such correct or preferable decision that should be identified, depending on the grounds that have been raised.

The application must contain a full description of the goods to which the application relates and a statement setting out the applicant’s reasons for believing that the reviewable decision is not the correct or preferable decision (s 269ZZE).

If an application contains information which is confidential, or if publication of information contained in the application would adversely affect a person's business or commercial interest, the application will be rejected by the ADRP unless an appropriate summary statement has been prepared and accompanies the application.

If the applicant seeks to bring confidential information to the ADRP's attention (either in their application or subsequently), the applicant must prepare a summary statement which contains sufficient detail to allow the ADRP to reasonably understand the substance of the information, but the summary must not breach the confidentiality or adversely affect a person's business or commercial interest (s 269ZZY).

While both the confidential information and the summary statement must be provided to the ADRP, only the summary statement will be lodged on the public record maintained by the ADRP (s 269ZZX). The ADRP is obliged to maintain a public record for review of decisions made by the Minister, and for termination decisions of the Commissioner. The public record contains a copy of any application for review of a termination decision made to the ADRP, as well as any information given to the ADRP after an application has been made. Information contained in the public record is accessible to interested parties upon request.

Documents containing confidential information should be clearly marked "Confidential" and documents containing the summary statement of that confidential information should be clearly marked "Non-confidential public record version", or similar.

The ADRP does not have any investigative function, and **must** take account only of information which was before the Minister when the Minister made the reviewable decision (s269ZZ). The ADRP will disregard any information in applications and submissions that was not available to the Minister.

## **HOW LONG WILL THE REVIEW TAKE?**

The timeframes for a review by the ADRP will be dependent on whether the ADRP requests the Commissioner to reinvestigate specific findings or findings that formed the basis of the reviewable decision.

*If reinvestigation is not required*

Unless the ADRP requests the Commissioner to reinvestigate a specific finding or findings, the ADRP must make a report to the Minister:

- - at least 30 days after the public notification of the review;
- - but no later than 60 days after that notification.

In special circumstances the Minister may allow the Review Panel a longer period for completion of the review (s 269ZZK(3)).

*If reinvestigation is required*

If the ADRP requests the Commissioner to reinvestigate a specific findings or findings, the Commissioner must report the results of the reinvestigation to the ADRP within a specified period.

Upon receipt of the Commissioner's reinvestigation report, the ADRP must make a report to the Minister within 30 days.

**WHAT WILL BE THE OUTCOME OF THE REVIEW?**

At the conclusion of a review, the ADRP must make a report to the Minister, recommending that the:

- - Minister affirm the reviewable decision (s 269ZZK(1)(a)), or
- - Minister revoke the reviewable decision and substitute a specified new decision (s 269ZZK(1)(b)).

After receiving the report from the ADRP the Minister must:

- - affirm his/her original decision; or
- - revoke his/her original decision and substitute a new decision.

The Minister has 30 days to make a decision after receiving the ADRP's report, unless there are special circumstances which prevent the decision being made within that period. The Minister must publish a notice if a longer period for making a decision is required (s 269ZZM).

**WHERE AND HOW SHOULD THE APPLICATION BE MADE?**

Applications must be EITHER:

- - lodged with, or mailed by prepaid post to:

**Anti-Dumping Review Panel c/o  
Legal Services Branch Department  
of Industry and Science  
10 Binara Street  
Canberra City ACT 2601  
AUSTRALIA**

- - OR emailed to:

**[ADRP@industry.gov.au](mailto:ADRP@industry.gov.au)**

- - OR sent by facsimile to:  
**Anti-Dumping Review Panel  
c/o Legal Services Branch  
+61 2 6213 6821**



## WHERE CAN FURTHER INFORMATION BE OBTAINED?

Further information about **reviews by the ADRP** can be obtained at the ADRP website ([www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au)) or from:

Anti-Dumping Review Panel c/o  
Legal Services Branch Department  
of Industry and Science  
10 Binara Street  
Canberra City ACT 2601  
AUSTRALIA

Telephone: +61 2 6276 1781  
Facsimile: +61 2 6213 6821

Inquiries and requests for **general information about dumping matters** should be directed to:

Anti-Dumping Commission  
Department of Industry and Science  
Ground Floor Customs House  
1010 Latrobe Street  
MELBOURNE 3008

Telephone: 1300 884 159  
Facsimile: 1300 882 506  
Email: [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au)

## FALSE OR MISLEADING INFORMATION

It is an offence for a person to give the ADRP written information that the person knows to be false or misleading in a material particular.

(Penalty: 20 penalty units – this equates to \$3400).

## PRIVACY STATEMENT

The collection of this information is authorised under section 269ZZE of the *Customs Act 1901*. The information is collected to enable the ADRP to assess your application for the review of a decision to publish a dumping duty notice or countervailing duty notice.

**APPLICATION FOR REVIEW OF  
DECISION OF THE MINISTER WHETHER TO PUBLISH A DUMPING DUTY  
NOTICE OR COUNTERVAILING DUTY NOTICE**

Under s 269ZZE of the *Customs Act 1901* (Cth), I hereby request that the Anti-Dumping Review Panel reviews a decision by the Minister responsible for Australian Customs and Border Protection Service:

to publish :                     a dumping duty notice(s), and/or  
    a countervailing duty notice(s)

OR

**not** to publish :                 a dumping duty notice(s), and/or  
    a countervailing duty notice(s)

in respect of the goods which are the subject of this application.

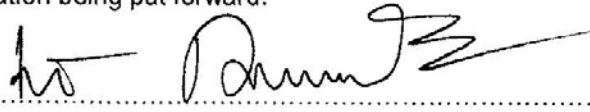
I believe that the information contained in the application:

- - provides reasonable grounds to warrant the reinvestigation of the finding or findings that formed the basis of the reviewable decision that are specified in the application
- - provides reasonable grounds for the decision not being the correct or preferable decision, and
- - is complete and correct to the best of my knowledge and belief.

I have included the following information in an attachment to this application:

- Name, street and postal address, and form of business of the applicant (for example, company, partnership, sole trader).
- Name, title/position, telephone and facsimile numbers and e-mail address of a contact within the organisation.
- Name of consultant/adviser (if any) representing the applicant and a copy of the authorisation for the consultant/adviser.
- Full description of the imported goods to which the application relates.
- The tariff classification/statistical code of the imported goods.
- A copy of the reviewable decision.
- Date of notification of the reviewable decision and the method of the notification.
- A detailed statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision.
- A statement identifying what the applicant considers the correct or preferable decision should be, that may result from the grounds the applicant has raised in the application. There may be more than one such correct or preferable decision that should be identified, depending on the grounds that have been raised.

[If the application contains material that is confidential or commercially sensitive] an additional non- confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Signature: .....

Name: METHITA RACHRONGMUANG.....

Position: CHIEF INFORMATION OFFICER.....

Applicant Company/Entity:

SAHATHAI STEEL PIPE PUBLIC COMPANY LIMITED.....

Date: 15 / 9 / 2015

## Sahathai Application for Review by ADRP

### APPLICATION for REVIEW of :

Decision of the Minister (Parliamentary Secretary) to Publish a DUMPING DUTY notice.

ADC Case No 254.

Hollow Structural Sections Exported from Thailand.

### APPLICANT DETAILS:

NAME	Sahathai Steel Pipe Public Company Limited
STREET ADDRESS	78 Moo 3 Poochao Road, Bangyapraek, Phrapradaeng, Samuthprakarn 10130, THAILAND
POSTAL ADDRESS	Same as above
FORM of BUSINESS	COMPANY
CONTACT PERSON	Miss Methita Rachrongmuang
POSITION/TITLE	Chief Information Officer
TELEPHONE	+ 66 23859023
FASCIMILE	+66 23859288
Email	methita@sahathai.com
ADVISOR	M J Howard
AUTHORISATION	Letter attached



ANTI-DUMPING REVIEW PANEL

c/o LEGAL SERVICES BRANCH

DEPARTMENT OF INDUSTRY AND SCIENCE

10 BINARRA STREET,

CANBERRA CITY,

ACT 2601

This letter is to advise that M J Howard is the Company's authorised Advisor on matters relating to our application for review of the Ministers decision on Case No 254.

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'M J Howard'.

## Full GOODS DESCRIPTION of the Imported Goods:

The goods the subject of the Dumping Duty Notice and this application for review, as described in Report No 254, 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). Finish types for the goods include pre-galvanised, hot-dipped galvanised (HDG), and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 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.”

### \* TARIFF CLASSIFICATIONS/STATISTICAL CODE OF THE IMPORTED GOODS:

- 7306 30 00 stat codes 31,32,33,34,35,36,and 37.
- 7306 50 00 stat code 45.
- 7306 61 00 stat codes 21, 22, 25, and 90
- 7306 69 00 stat code 10.

\*As per Schedule 3 to the Customs Tariff Act 1995

## **Customs Tariff (Anti-Dumping) Act 1975**

### **Certain Hollow Structural Sections Exported from the Kingdom of Thailand**

#### ***Notice pursuant to subsection 8(5) of the Customs Tariff (Anti-Dumping) Act 1975***

I, KAREN ANDREWS, Parliamentary Secretary to the Minister for Industry and Science, having decided to issue a notice pursuant to subsections 269TG(1) and 269TG(2) of the *Customs Act 1901* in respect of hollow structural sections described in that notice (the goods), DETERMINE, pursuant to subsection 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), that interim dumping duty payable on those goods be determined:

- in accordance with the ad valorem duty method as specified in subsection 5(7) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

Pursuant to subsection 8(5B) of the Dumping Duty Act, I have had regard to the desirability of fixing a lesser amount of duty such that the sum of:

- (i) the export price of goods of that kind as so ascertained, or last so ascertained; and
- (ii) the interim dumping duty payable on the goods

does not exceed that non-injurious price of goods of that kind as ascertained.

This notice applies to the goods and like goods entered for home consumption on and after 16 March 2015.

Dated this 12<sup>th</sup> day of August 2015

KAREN ANDREWS  
Parliamentary Secretary to the Minister for Industry and Science



## **ANTI-DUMPING NOTICE NO. 2015/102**

### **Certain Hollow Structural Sections Exported from the Kingdom of Thailand**

#### **Findings in Relation to a Dumping Investigation**

##### ***Customs Act 1901 – Part XVB***

On 21 July 2014 I, Dale Seymour, the Commissioner of the Anti-Dumping Commission published a notice announcing the initiation of an investigation into the alleged dumping of certain hollow structural sections (HSS) exported to Australia from the Kingdom of Thailand.

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

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);
- 7306.50.00 (statistical code 45);
- 7306.61.00 (statistical codes 21, 22, 25 and 90); and
- 7306.69.00 (statistical code 10).

A full description of the goods is available in Anti-Dumping Notice No. 2014/59, which is available on the internet at [www.adcommission.gov.au](http://www.adcommission.gov.au)

Findings and recommendations were reported to the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary) in *Anti-Dumping Commission Report No. 254* (REP 254), in which it outlines the investigations carried out by the Commission and recommends the publication of a dumping duty notice in respect of the goods. The Parliamentary Secretary has considered REP 254 and has accepted the recommendations and reasons for the recommendations, including all material findings of fact or law on which the recommendations were based, and particulars of the evidence relied on to support the findings.

Notice of the Parliamentary Secretary's decision was published in *The Australian* newspaper and the *Commonwealth of Australia Gazette* on 19 August 2015.

In REP 254, it was found that:

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



Accordingly, I recommended that a dumping duty notice in respect of HSS exported from Thailand be published in accordance with subsections 269TG(1) and 269TG(2) of the *Customs Act 1901* (the Act).

The method used to compare export prices and normal values to establish the dumping margin was to compare the weighted average export prices with corresponding normal values over the investigation period under subsection 269TACB(2)(a) of the Act. The normal value was established under subsections 269TAC(1) of the Act. The export price was established under subsections 269TAB(1)(a) of the Act.

Particulars of the dumping margins established for each of the exporters and the effective rates of duties are set out in the following table.

<b>Exporter / Manufacturer</b>	<b>Dumping Margins</b>	<b>Duty Method</b>
Sahathai Steel Pipe Public Company Limited	5.7%	Ad valorem
Pacific Pipe Public Company Limited	15.1%	Ad valorem
Samchai Steel Industries Public Company Limited	19.8%	Ad valorem
Uncooperative and all other exporters	29.7%	Ad valorem

The effective rate of duty that has been determined is an amount worked out in accordance with the ad valorem duty method, as detailed in the table above.

Measures apply to goods that are exported to Australia after publication of the Parliamentary Secretary's notice. Measures also apply to goods that were exported to Australia after the Commissioner made a preliminary affirmative determination to the day before the Parliamentary Secretary's decision was published.

Any dumping securities that have been taken on and from 16 March 2015 will be converted to interim dumping duty.<sup>1</sup> Pursuant to section 12 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), conversion of securities to interim duty will not exceed the level of security taken.

The actual duty liability may be higher than the effective rate of duty due to a number of factors. Affected parties should contact the Commission on 13 28 46 or at [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au) for further information regarding the actual duty liability calculation in their particular circumstance.

To preserve confidentiality, the export price, normal value and non-injurious price applicable to the goods will not be published. Bona fide importers of the goods can obtain details of the rates from the Dumping Liaison Officer in their respective capital city.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel, in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

Clarification about how measures are applied to 'goods on the water' is available in Australian Customs Dumping Notice No. 2012/34, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>1</sup> Within the time limitations of section 45 of the Act.

REP 254 has been placed on the Commission's public record. The public record may be examined at the Commission's office by contacting the case manager on the details provided below. Alternatively, the public record is available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2409, fax number +61 3 8539 2499 or email at [operations4@adcommission.gov.au](mailto:operations4@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

20 August 2015

DATE and METHOD of NOTIFICATION of REVIEWABLE DECISION:

- Decision by the Parliamentary Secretary to the Minister for Industry and Science was published in the Australian Newspaper on the 19<sup>th</sup> August 2015 and in the Commonwealth Gazette No C2015G01334 of the 19<sup>th</sup> August 2015.
- Copy attached at page 13.
- The Anti-Dumping Commissioner also published the decision by the Parliamentary Secretary of the 19<sup>th</sup> August 2015 on the Commission's website by ANTI-DUMPING Notice No 2015/102 dated 20<sup>th</sup> August 2015.C
- Copy attached at pages 14-16

DETAILED STATEMENT for REASONS SAHATHAI BELIEVING that the REVIEWABLE DECISION is NOT the CORRECT or PREFERABLE DECISION follow:

**The Parliamentary Secretary's decision to publish a dumping duty notice in respect of SAHATHAI, being a dumping duty ad valorem rate of 5.7% is flawed on the basis that the Anti-Dumping Commissioner's recommendation was erroneous because of the Commission's failure to allow a demonstrated and legitimate allowance for duty drawback in accordance with section 269TAC (8) of the Customs Act 1901.**

**Additionally, securities taken in accordance with section 42 (Act) are to be cancelled or converted to IDD. In our opinion, there appears to be no evidence of the Commissioner having informed the Australian Border Force (ABF) to cancel those securities in accordance with the time limitations of section 45 (Act) as outlined in Anti-Dumping Notice No 2015/102. Failure to cancel securities after the expiration of 4 months would be an error.**

**The Commissioner also failed to accept the place of export for container cargo as being the ex-works level in accordance with Section 154 of the Customs Act.**

## GROUNDS FOR APPEAL

GROUND	AUTHORITY CUSTOMS ACT 1901	REPORT 254 REFERENCE	APPLICATION REFERENCE	GROUND DETAIL
1	S269 TAC(8) ADA 2.4	PARA 6.4	DUTY DRAWBACK ADJUSTMENT	The Commissioner's recommendation to the Parliamentary Secretary to publish a Dumping Duty Notice in respect of 'Sahathai' exports was erroneous because of the failure to allow for a duty drawback adjustment.
2	SECTION 42 SECTION 45(3)(b)	PARA 2.3 ADN NO 2015/36 ADN NO 2015/66	CANCELLATION OF SECTION 42 SECURITIES	Commissioner has erred in not informing the 'Duty Authority', the ABF, to cancel securities required on and from 16/3/15. By failing to cancel the securities that expired on 15/7/15, the Parliamentary Secretary was precluded from publishing a retrospective Dumping Duty Notice vide s 269 TG(l)
3	SECTION 154	PARA 6.4.1.3	PLACE OF EXPORT CONTAINERIZE D CARGO	Commissioner has erred by rejecting the legislation defining place of export for containerised cargo and therefore failed to include this requirement in his recommendations of Report No. 254.

**NOTES:**

- (1) Parliamentary Secretary means Parliamentary Secretary to the Minister for Industry and Science
- (2) Commission means Commissioner of the Anti-Dumping Commission.

## **1. INTRODUCTION:**

**1.1** On 10<sup>th</sup> June 2014, Australian Tube Mills Pty. Ltd. (ATM) lodged an application requesting that the Minister for Industry and Science (The Minister) publish a dumping duty notice in respect of hollow structural sections (HSS) exported to Australia from the Kingdom of Thailand (Thailand).

**1.2** Sahathai Steel Pipe Public Company Ltd. (Sahathai) is a Thailand HSS producer and exporter of HSS to Australia.

**1.3** ATM alleged that the Australian industry, of which ATM is one of only three HSS producers, has suffered material injury caused by HSS exported to Australia from Thailand at dumped prices. HSS is simply small diameter steel pipe and tubes for both structural and non -structural applications.

**1.4** On 21<sup>st</sup> July 2014 the Anti-Dumping Commissioner initiated an investigation following the ATM application of 1.1 being Case No 254 and with the investigation period being the 12 months 1<sup>st</sup> July 2013 to 30<sup>th</sup> June 2014.

(Anti-Dumping Notice No 2014/59 refers)

**1.5** ATM had claimed 6.75% and 12.01% margins of dumping applied to exports of circular HSS and non- circular HSS respectively , and these claims were based on alleged differences on weight tolerance factors.

- 1.6 The Commission's Consideration Report No 254 on ATM's application estimated the alleged weight tolerance factor claimed by ATM resulted in preliminary dumping margins of 3.93% and 9.12% with an overall product dumping margin of 7.41%.
- 1.7 The verification visit to Sahathai on this investigation evidenced no differences in weight tolerances as alleged by ATM.
- 1.8 ATM had claimed that its material injury CAUSED by the exported HSS from Thailand commenced in June 2012 following the imposition of anti-dumping measures resulting from Case No 177 being measures effective from 3<sup>rd</sup> July 2012 on exports of HSS to Australia from the following countries:
- **Peoples Republic of China**
  - **Republic of Korea**
  - **Malaysia**
  - **Taiwan**
- 1.9 The investigation period for Final Report No 177 was the 12 month period 1<sup>st</sup> July 2010 to 30<sup>th</sup> June 2011.
- 1.10 Whilst Sahathai of Thailand was included in that previous investigation initiated by ATM's application, (Case No 177) the investigation on Sahathai was terminated on 6<sup>th</sup> June 2012 on the basis that Sahathai's ascertained dumping duty margin was negligible.

1.11 Sahathai has been subjected to previous investigations initiated by ATM (under various names) since year 1999.  
(Refer Final Report No 177, para 2.2)

1.12 Re this case, No 254, the Parliamentary Secretary to the Minister for Industry and Science , based on the recommendations of the Anti-Dumping Commissioner, decided to issue a notice pursuant to subsections 269TG(1) and 269TG(2) of the Customs Act 1901 on the 12<sup>th</sup> August 2015 that interim dumping duty payable on those goods described in para 1.1 be determined:-

- In accordance with the ad valorem duty method as specified in subsection 5(7) of the Customs Tariff( Anti-Dumping) Regulation 2013.

The decision also had regard to the desirability of fixing a lesser amount of duty-

- ‘such that the sum of:
  - (i) the export price of goods of that kind so ascertained, or last so ascertained, and
  - (ii) the interim dumping duty payable on the goods

does not exceed that non-injurious price of goods of that kind as ascertained.

The notice applies to the goods and like goods entered for home consumption on and after the 16<sup>th</sup> March 2015.

(Refer copy of decision page 13)

- 1.13 Importantly from Sahathai's beneficial interest, the Parliamentary Secretary applied the ad valorem rate (5.7%) and fixed the 'lesser duty' rule.
- 1.14 The Commission's relevant findings forming its recommendations on which the Parliamentary Secretary's decision was based are contained in Final Report No 254.

## **2. BACKGROUND.**

- 2.1** Sahathai is an interested and affected party in respect of Final Report No 254 as it was a producer and exporter of the HSS to Australia during the investigation period July 1<sup>st</sup> 2013 to 30<sup>th</sup> June 2014.
- 2.2** Sahathai is therefore treated as an exporter of the goods in this case and was considered a cooperative exporter and The Anti-Dumping Commission (ADC) undertook a verification visit to Sahathai during the period **11<sup>th</sup> to 16<sup>th</sup> March 2015**.

**The visit team** advised Sahathai that it would prepare a report on its findings .( Refer para 1.5 Visit Report.)

- 2.3** During the verification visit , on the **16<sup>th</sup> March 2015**, the ADC Commissioner issued a PAD imposing provisional measures on goods entered for home consumption on and from the 16<sup>th</sup> March 2015 by requiring securities in accordance with section 42 of the Customs Act 1901 (ACT).
- 2.4** The amount of section 42 security required on Sahathai exports EHFC on and from the 16<sup>th</sup> March 2015 was **12.4%** as per Anti-Dumping Notice No 2015/36, a copy of which is at Attachment 'A'.



2.5 Based on positive evidence from the visit during 11<sup>th</sup> to 16<sup>th</sup> March 2015, the ADC's verification visit team evidenced no basis for ATM's claimed weight factor and on the positive evidence verified during the visit determined a **Negligible** margin of dumping of ■■■% which the visit team advised by way of an 'advance' report on the 15<sup>th</sup> April 2015

(- refer ADC emailed communication to Sahathai of 15<sup>th</sup> April 2015)

2.6 The ADC's case management team however subsequently rejected this finding of ■■■% and in the Sahathai visit report eventually forwarded on 1<sup>st</sup> May 2015, the ADC case management team determined the margin of dumping to be **5.7%**.-Refer section 10 of the Sahathai visit report.

### **3. DUTY DRAWBACK ADJUSTMENT:**

3.1 The Commission's changed determination is a consequence of the Commission's case management team rejecting an adjustment in respect of import duty paid on imported Hot Rolled Coil used to produce locally sold like goods to those exported to Australia. The adjustment is allowable vide s269TAC (8).

3.2 Sahathai uses Hot Rolled Coil (HRC) to produce the HSS goods and its HRC purchases comprise both imported HRC and locally sourced HRC. Imported HRC used to produce the HSS exported to Australia is exempt from import duty whereas imported HRC used to produce locally sold HSS is dutiable at the rate of 5%.

3.3 HRC is the common input material for both circular and non-circular HSS with the finished goods being described as 'Black pipe/tube' . 'Black' goods are further finished by the addition of paint, or zinc coated (hot dipped galvanised circular pipe by batch dipping in a bath of zinc).

3.4 Domestically, Sahathai sales comprise the following mix of type and finishes:

Black Finish (Circular)	-	[REDACTED]	tonnes
Hot Dipped Galvanized(HDG)	-	[REDACTED]	tonnes
Painted (RHS)	-	[REDACTED]	tonnes

Additionally, within the product group of HSS, there are circular and non-circular types, and two grades, namely structural use applications and non-structural applications.

The Thai domestic market requirements are still predominantly for circular, non-structural Black and Hot Dipped Galvanized pipe for the more traditional applications of water, gas conveyancing etc.

Painted goods, namely non-circular (RHS) for structural applications is a relatively new but limited market requirement, and Black finish structural grade RHS is only a niche market of relatively few tonnes.

(Source ADC data)

3.5 Contrast the Australian market requirement and painted non-circular (RHS) is the volume requirement followed by the circular non-structural HDG.

Sahathai sales to Australia comprised the following:

Black Finish (Circular)	██████████	tonnes
Black(Lightly Oiled)	██████████	tonnes
HDG (Circular, non structural)	██████████	tonnes
Painted (RHS-Structural grade)	██████████	tonnes
Other (eg painted circ/fire app)	██████████	tonnes

(Source ADC data)

3.3 The Sahathai practice as evidenced by the visit team is for imported HRC intended for use in the production of HSS exported to Australia, and other markets such as the USA, is to have the HRC placed in an approved 'bonded warehouse' without payment of import duty (5%) and provided the imported HRC is used to produce HSS for export, no import duty is paid.

3.4 This arrangement is 'policed' by the Thai Customs Authority and based on the previous visit report on Case no 177, the yield factor for producing one tonne of finished HSS from one tonne of HRC is a factor of ██████████ which is applied to obtain the cost of HRC, and thus the consumption and accountability of imported HRC used in production.

3.5 Imported HRC designated for the production of HSS sold locally is Customs cleared ex the wharf on the payment of 5% import duty and does not enter the 'bonded warehouse'.

The Commission has the documentary evidence of the amount of import duty paid in this circumstance.

- 3.6 Additionally, Sahathai can release imported HRC from the 'bonded warehouse 'on the payment of 5% duty and the HRC released in this circumstance is on the basis of an identifiable import transaction for reasons of identification, accountability etc.

The Commission has the documentary evidence of the amount of import duty paid in this circumstance.

- 3.7 The Commission also has documentary evidence of the volumes of imported and locally sourced HRC.
- 3.8 The ADC verification team clearly evidenced that Sahathai's cost to make locally sold HSS from imported HRC included a 5% import duty component.
- 3.9 As evidenced in the previous investigation, Report No 177, the domestic selling price of Sahathai HSS goods (refer 3.4) is determined by the input cost of HRC and decided by the Managing Director (Visit Report), and as this practice remains Sahathai rejects the Commission's view that the domestic selling prices of Sahathai HSS are simply market driven and not cost based . There is no obvious evidence for the Commission's view on this and instead, the evidence from Case No 177 demonstrates that the cost of HRC, which if imported includes a 5% duty, is the determining price factor. In Sahthai's opinion, if the Commission's view was valid, it would be reasonable to expect at least some volume of domestic sales would be at a loss, and this is not the case.
- 3.10 As outlined in para 5.3.1.1 headed 'Hot Rolled Coil import duty' of the Confidential version of the visit report,

the ADC visit team considered Sahathai's argument for an adjustment based on the 5% import duty paid on imported Hot Rolled Coil used to produce HSS sold domestically, to be 'reasonable'.

3.11 Para 5.3.1.1 of the visit report reads, inter alia, -

“During the visit , the visit team and Saha Thai considered various methodologies to undertake the duty reallocation and settled on a formula to estimate the difference between the total CTMS reported in its accounts and the CTMS as if attracted the full import duty. After the visit, and in consultation with the case management team, concerns were raised regarding the formula and its assumptions. Accordingly, it was decided that Saha Thai's original CTMS calculation with no duty drawback adjustment would lead to a more accurate outcome.”

3.12 The case management team's decision has caused Sahathai being denied the benefit and entitlement to what it claims is a legitimate adjustment resulting in a negligible margin of dumping and because of the ADC's erroneous treatment of this claim it has had a margin of 5.7% imposed by the Parliamentary Secretary's decision of 12<sup>th</sup> August 2015.

3.13 The ADC's Final Report No 254 at section 6.4 further outlines Sahathai's basis for an adjustment and the Commission's rationale for rejecting same.

3.14. Sahathai, for reasons provided in this application, claim that it satisfied the evidentiary requirements necessary to allow an

**SAHATHAI APPLICATION for REVIEW by ADRP - - NON -CONFIDENTIAL VERSION**

adjustment for duty drawback in accordance with s 269TAC (8) which would have resulted in a negligible margin of dumping and as such the Commissioner has erred in not terminating the investigation in respect of Sahathai as required vide s. 269TDA (1).

Had the investigation been terminated the Parliamentary Secretary would not have been forwarded an erroneous recommendation to publish a dumping duty notice in respect of Sahathai.

The correct and preferable decision therefore was for the Commissioner not to recommend that the Parliamentary Secretary publish the dumping duty notice and for the Parliamentary Secretary not to have decided a determination of interim dumping duty being payable on the Sahathai exports to Australia.

#### **4. FACTUALS in SUPPORT of the Duty Drawback Adjustment.**

- 4.1 Sahathai keeps accounting records in accordance with generally accepted accounting standards in Thailand, the country of export.
- 4.2 There is no evidence in the Commission's findings in this or the several previous cases involving Sahathai that the Thailand accounting standards are not in line with the international financial reporting standards developed by; and international accounting standards adopted by ; the international Accounting Standards Board.

- 4.3. Sahathai is a publicly listed company in Thailand and its accounts are independently audited on a quarterly, and annual basis by Grant Thornton Limited, Bangkok., Thailand.- Para 2.4 Visit Report refers.
- 4.4 Sahathai openly acknowledged to the Commission that because of its need to ensure compliance with Thailand's generally accepted accounting principles it must, for inventory of finished goods valuations, only have a single cost for the product type.
- 4.5 The Commission has verified from documentary evidence the amount of import duty paid and the volume of imported HRC. For all practical purposes , when input goods are fungible and not easily, or readily traceable (eg; for reasons of compliance with accounting standards) authorities such as the Commission typically take producer figures on trust and use computer analysis of import and export patterns and employ spot checks of inventory to ensure that duty free status is properly claimed. Sahathai submits that Australian authorities cannot be seen to ignore Thai Authorities using a similar approach.
- 4.6 As the Commission is fully aware section 269TAC (8) is the relevant legislative provision for this claimed adjustment and the data required for the Commission to evidence a measurement of adjustment has been provided.
- 4.7 The Commission however maintains that it cannot establish that Sahathai's domestic sales prices for the HSS like goods had been **modified** by the effect of duties paid.

## SAHATHAI APPLICATION for REVIEW by ADRP - - NON -CONFIDENTIAL VERSION

4.8 Sahathai submits that a proper reading of the statute should lead to the conclusion that if **either** price is so **modified, an adjustment is appropriate**. In any event, the word ‘**modified**’ **which** is not found in the WTO Anti-Dumping Agreement (ADA), should not be given an unduly restrictive meaning. To do so in Sahathai’s view would be to alter the ADA norms on which section 269TAC (8) is based, and this cannot have been intended.

4.9 **The ADA states:-**

*“2.4 A fair comparison shall be made between the export price and the normal value.*

*This comparison shall be made at the same level of trade, normally at the **ex- factory level**, and in respect of sales made as nearly as possible the same time. Due allowance shall be made in each case , on its merits, for differences which affect price comparability , including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability. In the cases referred to in paragraph 3, allowances for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made. If in these cases price comparability has been affected, the authorities shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or shall make due allowance as warranted under this paragraph. The authorities shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties.”*

**(emphasis added)**

4.10 This provision, on which the Australian legislation is based, only refers to differences affecting “comparability”, not conscious modifications by a producer, although the latter could be a subset of the former. Hence the Commission's orrespondence and/or the ATM submissions referred to were arguably wrong to see it as only being about whether Saha Thai actually accounted for this in local pricing decisions or was able to do so in the prevailing market conditions.



## SAHATHAI APPLICATION for REVIEW by ADRP - - NON -CONFIDENTIAL VERSION

- 4.11 That there is a clear duty on the Commission to take all steps to find and determine what adjustments should be made , is also made clear in *Egypt - Steel Rebar* where the Panel stated:-

*“(W) read Article 2.4 as explicitly requiring a fact-based, case-by- case analysis of differences that affect price comparability. In this regard, we take note in particular of the requirements in Article 2.4 that due allowance shall be made in each case, on its merits, for differences which affect price comparability.*

*We note as well that in addition to an illustrative list of possible such differences, Article 2.4 also requires allowances for any other differences which are also demonstrated to affect price comparability. Finally, we note the affirmative information-gathering burden on the investigating authority in this context , that it shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties. In short, where it is demonstrated by one or another party in a particular case, or by the data itself that a given difference affects price comparability, an adjustment must be made. In identifying to the parties the data that it considers would be necessary to make such a demonstration, the investigating authority is not to impose an unreasonable burden of proof on the parties. Thus, the process of determining what kind or types of adjustments need to be made to one or both sides of the dumping margin equation to ensure a fair comparison, is something of a dialogue between interested parties and the investigating authority, and must be done on a case-by - case basis, grounded in factual evidence.”*

- 4.12 **As a result, it has to be concluded that Saha Thai sales are modified in different ways, as the Commission knows there is an equivalent to duty drawback for exports using imported HRC, but not for locally sold goods.**

4.13 The Commission is simply penalising Sahathai for its compliance with Thailand's accounting standards in that compliance does not allow Sahathai to have a specific account for duty paid on imported HRC used to make HSS sold domestically.

4.14 The Commission "has verified that Saha Thai's weighted average domestic HRC costs are higher than its weighted average imported HRC costs. Similarly, the Commission also calculated that for matching goods, Saha Thai's weighted average domestic prices are higher than its corresponding Australian export prices.

The Commission however, has continuing concerns that the selling price on the domestic market is modified when compared to export prices because of the payment of duty on imported HRC. The bases for these concerns are:

- An absence of financial records that allocates the cost of duty paid on imported HRC to HSS sold on the domestic market: and
- A pricing analysis that suggests that domestic prices are determined by market forces as opposed to cost based pricing."

4.15 There can be no doubt that the cost of imported HRC used to make locally sold HSS includes a 5% duty cost that is not included in the HRC cost used to make Australian HSS.

The issue the Commission has is that the 5% import duty cost should be accounted for separately in contravention of the Country's accounting requirements and in any event, it is

common accounting practice in Australia to account for the total 'input' cost of materials such as HRC used in production.

If the 'input' cost comprises purchase price, logistics cost, duty costs etc., it is only the 'end final' and actual cost that is accounted for in the cost to make in that the individual cost elements are not accounted for separately.

## **5. CANCELLATION of SECTION 42 SECURITIES**

5.1 Given Sahathai,

- (a) being the exporter of the goods subject to securities required under Section 42 of the Act from the 16<sup>th</sup> March 2015, has never requested the Commission to extend the period for expiration of Section 42 securities in accordance with Section 45 (3A), and
- (b) the clear statement in Final Report 254 that Sahathai's ascertained Normal Value is less than the Commission's determined non injurious price,(NIP), the securities should have been cancelled within the time limit of Section 45 of the Act, namely 4 months after their imposition on 16<sup>th</sup> March 2015.

5.2 Had the securities been cancelled in accordance with Section 45 (2) of the Act, being after the 4 month expiration date from the 16<sup>th</sup> March 2015, Sahathai submits that the Parliamentary Secretary would then have been precluded from publishing a dumping duty notice under s269TG (1) and that the correct and preferable decision in this circumstance was for the Commissioner to recommend to the Parliamentary Secretary that s 269TN of the Act prevented the publication of a dumping duty notice under s 269TG (1) of the Act.

## 6. PLACE OF EXPORT

- 6.1 The ADC visit team evidenced the fact that Sahathai exports some of its HSS goods to Australia in shipping containers known as Full Container loads (FCL's).
- 6.2 FCL cargoes are clearly identified by required shipping and ABF (Customs) documentation and the visit team also reported that the FCL's were loaded/packed at the Sahathai premises, being at the 'ex works' level of the Australian export transaction.
- 6.3 Section 154 of the Customs Act 1901 defines the place of export for FCL cargo as being at the 'ex-works' level.
- 6.4 Sahathai submitted to the ADC that the Section 154 valuation provision is **opposite and ought to be adopted** for both consistency and for commercial sensibility in the circumstances applying to Sahathai's FCL exports to Australia .
- 6.5 The ADC employed the 'ex-works' in the recent Case No 234 on Japanese exports to Australia and clearly the determination of price comparisons at the 'ex-works' level is not inconsistent with the legislative requirements concerning the treatment of export price.
- 6.6 For the very reason the ADC appears to have rejected Sahathai's claims on this issue, namely that relative expenses can be identified on export sales, the ADC has erred in not having regard to Section 154 for the reasons outlined in para 6.4 of above.

- 6.7 Sahathai also rejects the apparent ADC view that because only a smaller ratio of exports by volume has been via FCL shipments that having regard to Section 154 may not be relevant. The fact, as recognised by the Commission in its final report 254 is that the expenses incurred in the containerisation of the export cargo and can therefore be treated in accordance with Section 154.
- 6.8 The Commissioner should have had regard to Section 154 in terms of the place of export for containerised cargo and the failure to do so has resulted in the Parliamentary Secretary being forwarded an erroneous report on findings that formed the report's recommendations.

This failure by the Commission has contributed to the decision to publish a dumping duty notice in respect of Sahathai in Case 254 not being the correct or preferable decision.

**CONCLUSION:**

Sahathai thanks the Panel for its considerations and is fully prepared to provide any further information or clarification required by the Panel.

**Contact details for the Advisor are:**

**Phone : 61 459 21 2702**

**Email: jack@itada.com.au**

**ATTACHMENT 'A'**

**ADN Notices**

**SECTION 42 SECURITIES**

**ADN No 2015/36**

**AND No 2015/66**



## **ANTI-DUMPING NOTICE NO. 2015/36**

### **Certain Hollow Structural Sections Exported from the Kingdom of Thailand**

### **Preliminary Affirmative Determination and Imposition of Securities**

#### **Customs Act 1901 – Part XVB**

On 21 July 2014 I, Dale Seymour, Commissioner of the Anti-Dumping Commission initiated an investigation into the alleged dumping of certain hollow structural sections ('the goods') exported to Australia from the Kingdom of Thailand (Thailand), following an application lodged by Austube Mill Pty Ltd.

The goods the subject of this application are certain electric resistance welded pipe and tube made of steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes, whether or not including alloys. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include pre-galvanised, hot-dipped galvanised (HDG), and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21 mm up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 950.0 mm. CHS with other than plain ends (such as threaded, swaged and shouldered) are also included within the goods.

A full description of the goods is available in Anti-Dumping Notice (ADN) No. 2014/59. This ADN is available on the public record at [www.adcommission.gov.au](http://www.adcommission.gov.au).

A notice under subsection 269TD(4) of the Customs Act 1901 (the Act) advising that I had made a preliminary affirmative determination was published in The Australian newspaper on 16 March 2015. In the making of that preliminary affirmative determination I was satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Thailand.

In reaching this preliminary decision, I have had regard to the requirements of section 269TAE of the Act and am satisfied that dumped goods appear to have caused material injury to the Australian industry producing like goods.

The preliminary analysis of dumping margins is tabulated below. These margins were calculated under the Act by establishing export prices under subsection 269TAB(1)(a), establishing normal values ascertained under subsection 269TAC(1) and comparing these results in accordance with subsection 269TACB(2)(a).

Exporter	Dumping margin
Sahathai Steel Pipe Public Company Limited	12.4%
Pacific Pipe Public Company Limited	15.6 %
Samchai Steel Industries Public Company Limited	18.4%
Uncooperative exporters	30.6%

Preliminary Affirmative Determination Report No 254 sets out the reasons for making this preliminary determination, and has been placed on the public record. Alternatively it may be examined at the Anti-Dumping Commission's (the Commission's) office by contacting the case manager on the details provided below.

Under subsection 269TD(4)(b), I am satisfied that it is necessary to require and take securities in order to prevent material injury occurring to the Australian industry while the investigation continues.

The Australian Customs and Border Protection Service will require and take securities under section 42 of the Act in respect of interim dumping duty that may become payable in respect of the goods exported from Thailand entered for home consumption on or after 16 March 2015.

The security that has been determined is an amount worked out in accordance with ad valorem duty method.

These securities will be imposed at the rate specified in the above table of preliminary dumping margin assessments.

Affected parties should contact the Commission by phone 13 28 46 or +61 2 6213 6000 (outside Australia) or at [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au) for further information regarding the actual security liability calculation in their particular circumstance.

I must report to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary) with final recommendations in relation to this investigation on or before 13 July 2015. The Parliamentary Secretary will then decide whether to publish a dumping duty notice and, if relevant, the level of measures to be imposed.

If dumped or subsidised goods give rise to retrospective notices being imposed on the goods under section 269TN of the Act, the dumping duty notice will also include the duties to be imposed retrospectively.



Enquiries about this notice may be directed to the case manager on telephone number +61 3 9244 8267, fax number 1300 882 506 or email at [operations4@adcommission.gov.au](mailto:operations4@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

16 March 2015



## **ANTI-DUMPING NOTICE NO. 2015/66**

### **Certain Hollow Structural Sections**

### **Exported from the Kingdom of Thailand**

### **Amendment of Securities**

#### ***Customs Act 1901 – Part XVB***

I, Dale Seymour, Commissioner of the Anti-Dumping Commission initiated an investigation on 21 July 2014, into the alleged dumping of certain hollow structural sections ('the goods') exported to Australia from the Kingdom of Thailand (Thailand), following an application lodged by Austube Mills Pty Ltd (the application).

A full description of the goods is available in Anti-Dumping Notice (ADN) No. 2014/59. This ADN is available on the internet at [www.adcommission.gov.au](http://www.adcommission.gov.au).

In accordance with subsection 269TD(4)(a) of the *Customs Act 1901* (the Act), on 16 March 2015, I gave public notice that a preliminary affirmative determination had been made that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Thailand. That public notice, along with ADN No. 2015/36, also advised that I was satisfied that, in accordance with subsection 269TD(4)(b) of the Act, it was necessary to require and take securities in respect of interim dumping duty that may become payable in respect of the goods from Thailand in order to prevent material injury occurring to the Australian industry while the investigation continues, under section 42 of the Act.

Today the Anti-Dumping Commission (the Commission) released Statement of Essential Facts No. 254 (SEF 254). SEF 254 sets out the facts on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary) in relation to the application. This ADN should be read in conjunction with SEF 254, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

In preparing the SEF I have had regard to additional information including the verification visit reports and submissions received from the interested parties. As a result, the Commission preliminarily determined dumping margins and effective rates of securities which are revised from those previously published

on 16 March 2015. As a result of these findings, in accordance with section 269TD of the Act, I advise that:

- I remain satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Thailand;
- I remain satisfied that it is necessary to require and take securities in respect of interim dumping duty that may become payable in respect of the goods from Thailand in order to prevent material injury occurring to the Australian industry while the investigation continues; and
- Australian Customs and Border Protection Service require and take securities at revised rates, as specified in the table below.

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

These margins were calculated under the Act by establishing export prices under subsection 269TAB(1)(a) and establishing normal values ascertained under subsection 269TAC(1) and comparing these results in accordance with subsection 269TACB(2)(a).

Affected parties should contact the Commission by phone 13 28 46 or +61 2 6213 6000 (outside Australia) or at [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au) for further information regarding the actual security liability calculation in their particular circumstance.

The new level of securities will be taken in respect of any interim dumping duty that may become payable in respect of the goods entered for home consumption on or after **1 June 2015**.

I must report to the Parliamentary Secretary with final recommendations in relation to this investigation on or before 13 July 2015. The Parliamentary Secretary will then decide whether to publish a dumping duty notice and, if relevant, the level of measures to be imposed.

If dumped goods give rise to retrospective notices being imposed on the goods under section 269TN of the Act, the dumping duty notice will also include the duties to be imposed retrospectively.

Enquiries about this notice may be directed to the case manager on telephone number +61 3 8539 2409, fax number +61 3 8539 2499 or email at [operations4@adcommission.gov.au](mailto:operations4@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

28 May 2015