

# **Non-Confidential: Initiation of Review**

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## **Application by Pacific Steel (NZ) Ltd for a Review of the Anti-dumping Duties on Reinforcing Steel Bar and Coil from Thailand**

### **Summary**

1. Pacific Steel (NZ) Ltd (PSL) is a subsidiary of NZ Steel Holdings Ltd whose parent company is the Australian listed company BlueScope. PSL made an application on 18 September 2014 for the continuation of the anti-dumping duty on reinforcing steel bar and coil (rebar) imported from Thailand.
2. The current anti-dumping duty on rebar from Thailand was suspended for 3 years from 1 June 2014 by the Dumping and Countervailing Duties Amendment Act 2014. This act also suspended the current duties on standard plasterboard from Thailand and wire nails from China. It provides that if the Minister imposes any new anti-dumping duty on any residential building material or reassesses the rate or amount of any anti-dumping duty on any residential building material, these decisions will not take effect until 1 June 2017.
3. Nothing in the Dumping and Countervailing Duties Amendment Act 2014 prevents a review of a suspended duty from being carried out. Should the review find, however, that the duty should remain in place, it will continue to be suspended until 1 June 2017. If the review finds that the continuation of the duty is not justified, the suspension of the duty does not prevent the Minister from terminating the duty with immediate effect. The current anti-dumping duty will expire on 17 November 2014 if a review of the duty is not initiated before that date.
4. The Dumping and Countervailing Duties Act 1988 (the Act) provides that the Chief Executive shall initiate a review of the imposition of anti-dumping duty where requested to do so by an interested party that submits positive evidence justifying the need for a review.
5. The Assessment Team considers that positive evidence sufficient to justify the initiation of a review has been provided. This report therefore recommends that the Acting Manager, Trade and Regulatory Co-operation, Trade and International Environment Branch, acting under delegated authority from the Chief Executive of the Ministry of Business, Innovation and Employment, initiate a review.

### **Background**

6. Anti-dumping duties were first imposed on rebar from Thailand in March 2004. They were reassessed in November 2009 following a review completed in August 2009. The current rate of anti-dumping duty is a single ad valorem rate applying to all exporters of 28 percent.
7. Anti-dumping duty expires 5 years from the date it was first imposed or last reassessed following a review (a five-yearly review of a duty is known as a 'sunset' review). If a sunset review is initiated before the expiry date of the duty, the duty remains in place pending the outcome of the review.
8. The goods that will be subject to review if it is initiated are described as:

*“Reinforcing steel bar and coil with a diameter equal to or greater than 5mm and less than or equal to 40mm.”*

9. Rebar imported from Thailand enters New Zealand under the following New Zealand Customs Service tariff items and statistical keys:

7213.10.90 01E	7213.10.90 09L	7213.91.90 01J	7213.91.90 05A
7213.91.90 09D	7213.99.90 01E	7213.99.90 05H	7213.99.90 09L
7214.20.90 01G	7214.20.90 05K	7214.99.90 01C	7214.99.90 03K
7214.99.90 11L	7214.99.90 13G	7214.99.90 21H	7227.90.00 19H
7228.30.00 19D	7228.50.00 19A	7228.60.00 19E	

10. The Normal tariff rate is either 5 percent or free for rebar imported under the tariff items above. Where the Normal tariff of 5 percent applies, imports of rebar of Thai origin are eligible for duty free entry under either the New Zealand – Thailand Closer Economic Partnership Agreement or the ASEAN-Australia-New Zealand Free Trade Agreement.

### **Sunset reviews**

11. A sunset review requires an investigation to determine whether the expiry of the anti-dumping duty would likely lead to a continuation or recurrence of dumping and injury<sup>1</sup>.
12. Any interested party that requests a review of the imposition of anti-dumping duties must submit positive evidence which is duly substantiated, justifying the need for a review<sup>2</sup> and be made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of the duties.
13. The application for a review was received on 18 September 2014 which is well within the time required before the expiry of the duties (17 November 2014).
14. As outlined in paragraphs 2 and 3 above the anti-dumping duty on rebar from Thailand was suspended for 3 years from 1 June 2014 by an amendment to the Act but this does not prevent a review of the duty being carried out.

### **Consideration of the evidence presented**

15. The Assessment Team interprets the requirement of section 14(8) of the Dumping and Countervailing Duties Act 1988 for an interested party to submit “positive evidence justifying

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<sup>1</sup> The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement), Article 11.3, states in part: “...any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review...if that review has covered both dumping and injury...), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and injury [footnote omitted].”

<sup>2</sup> The Dumping and Countervailing Duties Act 1988, section 14(8), states: “The [Chief Executive] may, on his or her own initiative, and shall, where requested to do so by an interested party that submits positive evidence justifying the need for a review, initiate a review of the imposition of anti-dumping duty... in relation to goods and shall complete that review within 180 days of its initiation.”

the need for a review” as being a requirement for positive evidence, but not evidence to the same extent as that required under section 10(2) of the Act in respect of new investigations. This interpretation is supported by the international jurisprudence relating to the WTO Anti-Dumping Agreement<sup>3</sup> and the WTO Agreement on Subsidies and Countervailing Measures<sup>4</sup>, which has evidentiary provisions that are very closely aligned with those of the Anti-Dumping Agreement.

16. The Assessment Team considers, therefore, that while an application for the initiation of a sunset review may cover the information outlined in section 10(2) of the Act and paragraph 2 of Article 5 of the Anti-Dumping Agreement, it is not necessary that all of these matters are addressed or addressed in full for an application to constitute “positive evidence justifying the need for a review” and to be duly substantiated.

### **New Zealand industry and like goods**

17. The Anti-Dumping Agreement states that a request for a sunset review “must be made by or on behalf of the domestic industry” (Article 11.3). Section 3A of the Act<sup>5</sup> defines an “industry” as the New Zealand producers of like goods and section 3 of the Act<sup>6</sup> defines “like goods”.
18. PSL has advised that it continues to produce rebar which is ‘like’ to the subject goods imported and remains the only New Zealand producer of rebar. The Assessment Team is not aware of any other New Zealand producer of rebar. Based on the statement by PSL in its application and the evidence from the original investigation and the last review the Assessment Team considers that there is sufficient evidence to conclude that the rebar produced by PSL is a like good to the goods subject to the duty.
19. The Assessment Team considers therefore that the information available constitutes sufficient evidence that there is a domestic “industry” in terms of section 3A of the Act, which consists solely of PSL and PSL therefore has standing as the industry to make the application.

### **Continuation or recurrence of dumping**

#### **Export price**

20. The 2009 review found that there had been no rebar imported from Thailand since October 2006. In the 2009 review, likely export prices in the absence of anti-dumping duties were established on the basis of average export prices of rebar taken from Thai export statistics to all export destinations.

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<sup>3</sup> World Trade Organisation Dispute Settlement Panel United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan WT/DS244/R 14 August 2003 (paragraph 7.27).

<sup>4</sup> World Trade Organisation Dispute Settlement Panel United States – Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany WT/DS213/R 3 July 2002 (paragraph 8.42).

<sup>5</sup> For the purposes of this Act, the term “industry”, in relation to any goods, means- (a) The New Zealand producers of like goods; or (b) Such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods.

<sup>6</sup> Like goods, in relation to any goods, means- (a) Other goods that are like those goods in all respects; or (b) In the absence of goods referred to in paragraph (a) of this definition, goods which have characteristics closely resembling those goods.

21. For the current application for review, PSL noted that the Statistics Department has a confidentiality order in place on New Zealand import data relating to rebar imports. PSL said, however, that Thai export statistics obtained from [REDACTED]<sup>7</sup> shows that there have no exports of rebar from Thailand to New Zealand since the last review. PSL said it had therefore not been possible to obtain direct evidence of actual export prices such as copies of invoices issued by Thai exporters to New Zealand importers.
22. To estimate export prices PSL has therefore relied on export data from [REDACTED] compiled for Thailand. PSL has firstly used data for exports to Pakistan and Indonesia for the 12 months to 31 March 2014 for the following 6 digit HS codes: 721310, 721391, 721399, 721420, and 721499. PSL said that it had selected exports to Pakistan and Indonesia because these are the 2 largest export markets with which Thailand does not share a land border. PSL said that countries with which Thailand shares a land border, due to their proximity, “. . . will tend to have similar domestic normal values and it is thus likely that the economics of such trade will not exhibit the character of a distant market dumped export flow such as previously occurred with the export of Thai goods to New Zealand; second, the form of transport and packaging and trade on a land border sale will be akin to a domestic sale, not (which is necessary for this application), to a distant sea-freighted destination.”
23. PSL has also provided [REDACTED] data on exports from Thailand to Australia under what PSL said is the primary HS code under which that trade is known to occur, i.e. 722830. PSL said the exports from Thailand to Australia under this HS code relate to [REDACTED]. This data was also provided for the 12 months to 31 March 2014.
24. PSL has noted that these export sales to Pakistan, Indonesia and Australia “. . . are distant sales to destinations where the sale involves similar or the same considerations (such as transport, being distant from the Thailand home market and the like) as an export sale to New Zealand. The export sale of like goods by Thailand to Pakistan, Indonesia and Australia are also unaffected by any trade remedy, now or in the past.”
25. From the export data referred to above PSL has calculated an average FOB price per tonne for exports to Indonesia and Pakistan of [REDACTED] and for exports to Australia of [REDACTED]. Converted to baht these amounts are respectively [REDACTED] and [REDACTED] per tonne.

### ***Adjustments to the Export Prices***

26. The Act requires that adjustments are made to the export price for costs, charges and expenses incurred in preparing the goods for shipment to New Zealand that are additional to those which are generally incurred on sales in the domestic market of the country of export, and any other costs charges and expenses resulting from the exporting of the good or arising after shipment from the country of export.

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7 [REDACTED]

### Customs Costs

27. PSL said these costs cover terminal handling charges, 'Gate', 'Customs', bill of lading etc and assume [REDACTED]. PSL advised that these costs are [REDACTED].
28. PSL provided a copy of a spreadsheet showing [REDACTED] in US dollars, the calculation of the average costs and the conversion of the costs to Thai baht using an exchange rate obtained from OANDA. The cost calculated on this basis is [REDACTED] baht per tonne.

### Transport from Factory to Port

29. PSL said this cost is based on average of:
- (a) The cost of transport estimated in [REDACTED] converted to Thai baht; and
- (b) The cost of transport it estimated for the 2009 review updated by the increase in the Thai CPI.
30. The cost of transport calculated on this basis is [REDACTED] baht per tonne.

### Cost of credit

31. PSL said this adjustment is based on an estimated credit term of [REDACTED] days (taken from credit terms offered in [REDACTED] export trade) and an interest rate of 7.32 percent, which is a simple average of 2 interest rates. PSL has provided a reference to a web site from which the 2 interest rates were taken. The cost of credit calculated on this basis is [REDACTED] baht per tonne.

### Other Miscellaneous Costs

32. PSL said this relates to tie, label and dunnage which it estimated to be [REDACTED] per tonne or [REDACTED] baht per tonne. PSL did not explain the source of this estimate in its initial application.

### Export price calculation

33. The calculation of the 2 ex-factory export prices is shown in the table below.

	Exports to Indonesia & Pakistan (baht/tonne)	Exports to Australia (baht/tonne)
Average FOB price per tonne	[REDACTED]	[REDACTED]
Customs costs	[REDACTED]	[REDACTED]
Transport from factory to port	[REDACTED]	[REDACTED]
Cost of credit	[REDACTED]	[REDACTED]
Other miscellaneous costs	[REDACTED]	[REDACTED]
Ex-factory price	[REDACTED]	[REDACTED]

**Assessment Team's Consideration of the Evidence**

34. The Assessment Team has considered the evidence provided in relation to export prices, bearing in mind the Assessment Team's interpretation of the evidentiary requirement for the initiation of a review outlined in paragraphs 15 and 16 above.
35. In the absence of any imports of rebar into New Zealand from Thailand for many years, the Assessment Team considers that the general approach taken by PSL of estimating likely export prices to New Zealand by using export prices to other countries is reasonable. The Assessment Team notes this approach has also been used in other reviews and was used by the previous owner of PSL's steel making business in its application for a sunset review in 2009.
36. In relation to the export price established on the basis of export sales to Indonesia and Pakistan, PSL has used export statistics at the HS 6 digit level for 5 tariff items, as noted above. The Assessment Team notes that imports of the subject goods can also enter New Zealand under 4 other tariff items (at the 6 digit level) which cover bars and coils of alloy steel.
37. The Assessment Team queried PSL about why exports under these 4 other tariff items were not included in the calculation of an export price based on exports to Indonesia and Pakistan. PSL said that the 722 codes are for what may be described as "pure" alloy/special purpose steels which are never used for or fulfil the needs of concrete reinforcing customers. PSL said that the 722 codes are intended to encompass steels where highly material proportions of alloying elements are included so that it has very hard wearing properties or is very hard for impact resistance use. PSL commented that rebar does not require these properties. PSL said that while the 722 codes may be used for rebar, they normally should not be so used.
38. The Assessment Team notes that in the Ministry's final report on the 2009 review, likely export prices were based on export data from Thailand under tariff item 721420 only. The Assessment Team has analysed imports of rebar into New Zealand over the year ended August 2014 by tariff item. This shows that imports under the 5 tariff items used by PSL represent 85 percent of all imports under the tariff items under which the subject goods can be classified and that the majority of these imports enter under the 721420 tariff item used in the 2009 review. The Assessment Team further notes that the value for duty (VFD) per kilogram of imports for the year ended August 2014 under the 722 steel alloy tariff items was twice that of the imports under the 721 tariff items, which suggests that imports under the 722 tariff items may not be rebar.
39. On the basis of the above considerations the Assessment Team considers that it is reasonable to estimate an export price based on exports from Thailand under the relevant 721 tariff items. The Assessment Team notes that rebar of diameters greater than the maximum diameter of rebar to which the duty applies can be imported under these tariff items, but this is unavoidable within the limitations of the data available.
40. As outlined above, PSL has also established an export price based on exports from Thailand to Australia under the tariff item 722830. The Assessment Team asked PSL for further information about why this export price had been based on exports under this tariff item rather than on exports under the relevant 721 tariff items. PSL said that

[REDACTED]

- [REDACTED]
41. The Assessment Team accessed the [REDACTED] data and confirmed that most of the exports to Australia are recorded under the 722830 tariff item. The Assessment Team notes that PSL is owned by Bluescope a major Australian listed company involved in the steel industry. It is therefore reasonable to assume that [REDACTED]. The Assessment Team concludes on the basis of the foregoing considerations that it is reasonable to estimate an export price on the basis of export sales to Australia under the 722830 tariff item.
42. The Assessment Team has considered PSL's argument (outlined above) that export sales to countries with which Thailand shares a land border should not be included in the calculation of an estimated export price to New Zealand. The Assessment Team notes that the [REDACTED] data provided by PSL shows that the 3 largest export destinations by volume are Laos, Cambodia and Myanmar, all of which share a land border with Thailand (the next largest export destinations are Indonesia and Pakistan).
43. The Assessment Team notes that the WTO Anti-Dumping Agreement requires that export prices and normal values be compared at the same level of trade, normally at the ex-factory level. A comparison of export prices and normal values at the ex-factory level is designed to ensure that factors other than dumping do not distort this comparison. The destination of an export sale, whether it is to a country with which the country of export shares a land border or any other country, should therefore not affect the ex-factory price.
44. The Assessment Team consequently asked PSL to provide further comments on why the exclusion of export sales to countries with which Thailand shares a land border is justified in estimating an export price. PSL commented that [REDACTED]. PSL said it considers, [REDACTED]. PSL said that distance therefore affects the export price and consequently the pricing of exports from Thailand to distant markets is a better proxy for the likely export prices to New Zealand.
45. Alternatively, PSL argued that if exports from Thailand to all destinations are to be used, then the export price would need to exclude goods which, as is apparent from their price, are clearly not comparable goods. PSL provided a copy of a graph from Platts Steel Business briefing of rebar prices in 3 OECD countries or regions from May 2013 to September 2014 which shows that prices were all below [REDACTED] per tonne over this period. PSL said that if data from countries where the monthly average price exceeds [REDACTED] per tonne are excluded then the export prices would more closely reflect the export price of rebar of the type subject to the duty.
46. The Assessment Team is not convinced that excluding export sales to countries with which Thailand has a land border is a reasonable approach to the calculation of an export price and notes that in the 2009 review export prices were estimated on the basis of export sales from

Thailand to all export destinations. Also, export prices to foreign markets are based on a number of considerations, not only the proximity of the foreign market to the country of export. Other such considerations include the amount of competition for the product in question and the level of economic development which exists in the export market.

47. The Assessment Team considers however that (as PSL has submitted) it would be reasonable to exclude data in those months where the average price per tonne exceeds [REDACTED]. The Assessment Team has therefore accessed [REDACTED] data and recalculated an average export price for the year ended March 2014 for the 5 tariff items used by PSL in its application by excluding data from those months where the average price exceeded [REDACTED] per tonne. The export price calculated on this basis is [REDACTED] per tonne, which equates to [REDACTED] baht per tonne (this compares to the export price in relation to exports to Indonesia and Pakistan of [REDACTED] baht per tonne estimated by PSL).

#### *Adjustments to Export Price*

48. The Assessment Team is satisfied that sufficient evidence has been provided by PSL of the Customs costs, which are substantiated by several quotes, as outlined above.
49. In relation to the cost of transport from factory to port, the Assessment Team has referred to the [REDACTED] and considered the evidence that was provided [REDACTED] in relation to this cost. The cost in [REDACTED] was an estimate provided by [REDACTED] which was based on an average distance from factory to port in Malaysia of [REDACTED]. The Assessment Team confirmed that cost used in PSL's application agreed with that in [REDACTED] and checked the conversion of this figure into Thai baht.
50. The Assessment Team notes that the normal value is based on selling prices obtained from the Bangsaphan Barmill Public Company. This company's web site records that the mill is located in the Bangsaphan District and is attached to a deep sea port. [REDACTED] is therefore likely to be overstated. The Assessment Team also referred to the other component of the transport cost estimate which was taken from the transport cost used in the 2009 review and agreed that figure to the figure provided by PSL. The Assessment Team has also checked the updating of this figure by the movement in the Thai CPI.
51. As noted above, because the normal value against which the export price is being compared is based on prices from a factory in close proximity to a port, the Assessment Team considers that the estimate [REDACTED] is likely to be overstated. It is also not clear [REDACTED] are comparable to those in Thailand. The Assessment Team notes that the cost taken from the galvanised wire application is significantly higher than that estimated by updating the figure used in the 2009 review. In light of these considerations the Assessment Team asked PSL to provide further comment on the basis on which the cost of transport was calculated. In response PSL said that it considered its estimate of the transport cost to be reasonable given the information available to it ". . . as it takes guidance from both new information, and older base but updated information."
52. The Assessment Team considers that the cost estimated by updating the 2009 review figure is likely to be closer to the actual cost of transport than the figure estimated by PSL by averaging the 2 estimates. For the purpose of considering the reasonableness of the export price, the



Assessment Team has therefore used the updated cost from the 2009 review of [REDACTED] baht per tonne.

53. In relation to the cost of credit, the Assessment Team asked PSL for evidence to substantiate the [REDACTED] day term used in this adjustment. PSL provided a copy of a quote from [REDACTED] for an export sale to Australia which shows a credit term of [REDACTED] days from the date of the bill of lading. The Assessment Team notes that the credit term used in the 2009 review was [REDACTED] days, but given the evidence provided is for a related industry, considers that [REDACTED] days is reasonable. The Assessment Team is satisfied with the evidence provided of the interest rate.
54. In relation to the other miscellaneous costs the Assessment Team asked PSL to explain the basis on which these costs were calculated. PSL said it is a commercial estimate originating in the 2004 investigation. In addition, PSL noted that it had obtained some further information based on the costs it incurs on its exports of rebar to Australia. PSL said these costs primarily relate to the cost of [REDACTED] the cost of which approximates [REDACTED] per tonne or [REDACTED] baht per tonne. The Assessment Team notes that the nearest equivalent cost for which an adjustment was made in the 2009 review was for container handling and stuffing which was [REDACTED] baht per tonne which indicates that the cost estimated for this review is reasonable.

*Revised Export Price Calculation*

55. The following table shows a revised calculation of the export price which incorporates the export price based on exports from Thailand to all destinations, a revised cost of transport from factory to port and a revised calculation for the cost of credit (which is based on the base FOB price) for the export price based on exports to all destinations.

	Exports to all destinations (baht/tonne)	Exports to Australia (baht/tonne)
Average FOB price per tonne	[REDACTED]	[REDACTED]
Customs costs	[REDACTED]	[REDACTED]
Transport from factory to port	[REDACTED]	[REDACTED]
Cost of credit	[REDACTED]	[REDACTED]
Other miscellaneous costs	[REDACTED]	[REDACTED]
Ex-factory price	[REDACTED]	[REDACTED]

**Normal value**

56. PSL has estimated a normal value using published information on the selling prices of a Thai rebar manufacturer, Bangsaphan Barmill Public Company (BSBM), a company which is listed on the Thai stock exchange. PSL has referred to an extract from BSBM’s 2013 annual report which refers to the nature of its business as being the production of round and deformed steel bars of various diameters and lengths for use in concrete reinforcing.
57. PSL also referred to information in BSBM’s 2013 annual report which suggests that it sells largely on the Thai domestic market. PSL has noted that BSBM did not disclose any information in its 2013 annual report on export sales. PSL said that it understands that Thai companies have a requirement to separately disclose domestic and export sales. PSL said that understanding arises from an analysis by the Ministry in its final report on the 2009 review.

PSL said it therefore considers that BSBM's pricing information relates to its sales on the Thai domestic market.

58. PSL said that the best information on BSBM's selling prices is that available in a report by Maybank Kelive of 6 May 2014 which provides BSBM's average selling prices in baht per tonne for each quarter for the year ended 31 March 2014. PSL has estimated a normal value by calculating the simple average of each of these average quarterly prices – the normal value calculated on this basis is 20,837.75 baht per tonne. PSL has also calculated 2 alternative normal value amounts - one from publicly available sales volume and revenue data - and one taken from BSBM's 2013 annual report. The alternative normal value amounts are close to the amount taken from the Maybank Kelive report but PSL has noted that the Maybank Kelive figure is the most up-to-date and has therefore been used.

#### **Adjustments to the Normal Value**

59. PSL said it could not find any reference to BSBM's sales being on an FIS basis so it has assumed no adjustment is required for freight costs.
60. PSL has made an upwards adjustment for a 'short length premium', which is equal to an adjustment made in the 2009 review updated by the change in Thai CPI since then. The basis of this adjustment goes back to the original investigation in 2004 when it was established that 6 meter lengths of rebar exported to New Zealand incurred extra costs which were not incurred on domestic sales and consequently an upwards adjustment was required to the normal value to ensure price comparability. The adjustment made by PSL on this basis is [REDACTED] baht per tonne.
61. PSL has made a downwards adjustment for the cost of credit based on a credit term of [REDACTED] days at an interest rate of 7.32 percent. The credit term is taken from the Maybank Kelive report referred to in paragraph 58 above. The interest rate is that the same as that used in the cost of credit adjustment to the export price as outlined in paragraph 31 above. The adjustment made by PSL on this basis is [REDACTED] baht per tonne.

#### **Normal value calculation**

62. The calculation of the normal value is shown in the table below (all figures in baht per tonne).

BSBM's average selling price	20,837.75
Plus adjustment for short length premium	[REDACTED]
Less adjustment for cost of credit	[REDACTED]
Normal value	[REDACTED]

#### **Assessment Team's Consideration of the Evidence**

63. The Assessment Team notes that in the 2009 review the normal value was established on the same basis as that in PSL's application for this review, i.e. on the BSBM's selling prices obtained from publicly available sources and was premised on all of BSBM's sales being on the Thai domestic market at the ex-factory level.
64. The Assessment Team sighted the Maybank Kelive report on which the normal value is based and checked that the average selling price on which normal values are based agrees with that shown in the application. The Assessment Team also sighted on the internet both the data and the price on which the 2 alternative normal values were based to confirm these amounts in the application agreed with the sources on which they are based.

65. The Assessment Team also referred to that part of the Ministry’s final report on the 2009 review referred to by PSL concerning the Ministry’s assessment of whether BSBM’s sales are all or largely made on the Thai domestic market. The Ministry’s assessment at that time was that based on the published information it was difficult to state with certainty that BSBM’s sales are domestic only but as BSBM has published that its customers are nationwide rather than worldwide its focus therefore would appear to be mainly on domestic customers in Thailand. The Ministry consequently accepted that the normal value should be calculated on the assumption that all of BSBM’s sales were on the Thai domestic market.
66. The Assessment Team has referred to BSBM’s web site for any information that indicates its sales all made on the Thai domestic market. The ‘Home’ page of BSBM’s web site notes that its distribution channel is mainly through major trading distributors who reach most retail shops as well as construction users nationwide. The Assessment Team also examined the information in BSBM’s 2013 annual report referred to by PSL, which is similar in content to the information on its web site ‘Home’ page. The evidence available in PSL’s application on the issue of whether BSBM’s sales are largely or all on the Thai domestic market is similar to that available in the 2009 review.
67. The Assessment Team considers that it is still difficult to conclude with certainty that BSBM’s sales are largely or only domestic. However, the Assessment Team considers that the evidence that BSBM’s sales are largely or all domestic is sufficient for the purpose of initiating a review. The Assessment Team further considers that there is also evidence available on BSBM’s average selling price sufficient for the purpose of establishing a base normal value.
68. In relation to the evidence available for a short length premium the Assessment Team has examined the basis on which this adjustment was made in the 2009 review and agreed the amount of the adjustment to the figure used in PSL’s application and checked the calculation of the updating of this figure by the change in the Thai CPI. On this basis, the Assessment Team considers that sufficient evidence of this adjustment has been provided.
69. The Assessment Team has sighted the evidence provided by PSL of the interest rate and credit term used in the cost of credit adjustment and checked the calculation of this adjustment. The Assessment Team considers that sufficient evidence has been provided in respect of this adjustment.

### Comparison of export price and normal value

70. The table below shows the comparison of export price and normal value and the resulting dumping margin provided by PSL in its application.

	Export Price Based on Exports to Indonesia & Pakistan*	Export Price Based on Exports to Australia
Export price	██████████	██████████
Normal value	██████████	██████████
Dumping margin	██████████	██████████
Dumping Margin as % of EP	██████████	██████████

\*In its application, PSL in comparing export prices with normal values, also calculated separate dumping margins based on exports to Indonesia and to Pakistan (although only a single export price was calculated in the export price section of the application in respect of exports to these

2 destinations). The dumping margin percentages calculated were 6% and 25% respectively and are referred to by PSL in its application in relation to the likelihood of a recurrence of dumping.

71. The following table shows the comparison of export price and normal value which incorporates the changes made to the base export price and adjustments, as outlined above.

	Export Price Based on Exports to all Destinations	Export Price Based on Exports to Australia
Export price	██████████	██████████
Normal value	██████████	██████████
Dumping margin	██████████	██████████
Dumping Margin as % of EP	9%	7%

### Likelihood of a Recurrence of Dumping

72. As noted above, there have been no imports of rebar from Thailand for many years. PSL submitted in its application that there is likely to be a recurrence of dumped imports of rebar from Thailand in the absence of the anti-dumping duty because of the following key factors.

*Thailand exports rebar with substantial dumping margins and has grown export sales to Australia*

73. PSL has submitted that the evidence on dumping margins set out above shows that Thai exports rebar to ‘sea freight’ destinations at dumped prices, at dumping margins ranging from █% to █%. PSL has noted that ██████████ data shows that exports of rebar from Thailand to Australia have grown from ██████████ tonnes in the year to March 2011 to ██████████ tonnes in the year to March 2014. PSL said this represents an increase in the share of the market held by rebar from Thailand as the Australian market for rebar has been roughly flat during this period.

74. PSL submitted that it is reasonable to conclude from the evidence in the paragraph above that the anti-dumping duty has been effective in reducing dumping into the New Zealand market and that if exports from Thailand to New Zealand resume they will be at prices at or near to prices to markets similar to New Zealand.

75. The Assessment Team notes that on 17 October 2014 the Australian Anti-Dumping Commission initiated a dumping investigation into steel reinforcing bar from several countries, including Thailand. The dumping margin calculated by the applicant in that case for Thailand was 7.4 percent. The Assessment Team notes that the initiation of an investigation by another country is not definitive evidence that rebar is likely to be dumped into New Zealand in the absence of the duty, but it does lend some weight to PSL’s contention that exports from Thailand to Australia may be dumped.

*There is significant rebar manufacturing capacity in Thailand well beyond domestic demand and there is evidence that rebar produced from a new expansion of capacity will not find domestic customers in Thailand*

76. PSL said there is evidence that the major long steel maker in Thailand, Millennium Steel (a subsidiary of Tata Steel (Thailand) Public Company Ltd) has excess production capacity which it considers is an encouragement to seek export markets. PSL has referred to published information from Tata Steel Thailand which indicates that it has significant surplus capacity (although this appears to cover not only rebar but other products as well).

77. PSL has also referenced information published by BSBM to the effect that there is an oversupply of rebar on the Thai domestic market resulting from excess production capacity in Thailand. PSL has also estimated that BSBM has significant surplus capacity based on published information relating to its production capacity and production volumes. PSL has referred to surplus capacity or impending surplus capacity in other Thai producers and other more general information about world-wide surplus capacity and the injurious effects this can have.

*The Thai Steel Profile Company Ltd expansion will have some particular impacts on the Thai rebar industry that will drive export behaviour*

78. PSL said that Thai Steel Profile Co Ltd, a Thai producer of rebar, is currently adding 500,000 tonnes of rebar production capacity using an advanced plant design which will improve efficiency of the plant. PSL has provided references to a website to substantiate this. PSL submitted that the improved efficiency and the significant investment in the plant will mean that Thai Steel Profile Co Ltd will be highly motivated to sell the additional volume from this plant which could displace current suppliers who will in turn seek a new home for their displaced sales.

*The historical evidence of exporters and importers behaviour in relation to exporting dumped rebar from Thailand to NZ*

79. PSL has referred to findings by the Ministry in the original investigation and the 2009 review about the openness of the New Zealand market to rebar imports and has referred to the volume of rebar that was being imported from Thailand prior to the original investigation. PSL has also noted that many of importers and exporters who were previously involved in the export and import of rebar to New Zealand remain active. PSL also referenced evidence that one Thai manufacturer has certification that its rebar meets the relevant standards in Australia and that another Thai manufacturer produces seismic grade rebar [REDACTED].

*Thailand's domestic economy is under pressure which may negatively impact local consumption and thus encourage exports*

80. PSL has referenced various reports about economic uncertainty in Thailand and has submitted this will impact on demand in Thailand for rebar which will, when considered in conjunction with the surplus capacity, encourage Thai producers to export rebar.

*The attractiveness of the NZ market*

81. PSL has referenced various reports about the good growth prospects for the New Zealand economy and the projected growth in construction particularly in Christchurch and Auckland. PSL has submitted that this makes the New Zealand market attractive for Thai rebar exporters.

*Steel prices have been tracking lower recently which will encourage exports to higher value destinations*

82. PSL has referred to evidence of a decline in world steel prices since February 2011. PSL has argued that New Zealand will be understood by Thai rebar exporters [REDACTED] which will further enhance the likelihood of a resumption of dumped goods to New Zealand.

*There is ease of entry into the NZ market*

83. PSL has referred to extracts from the Ministry's final report on the 2009 review about the ease of entry into the New Zealand market, the price competitiveness of Thai rebar and that New

Zealand companies import other steel products from Thailand (as well as from other countries). PSL has submitted that this situation remains unchanged since the 2009 review.

### ***The Suspension of the Current Anti-Dumping Duty***

84. As noted above, the current anti-dumping duty on rebar from Thailand was suspended for 3 years from 1 June 2014 by means of an amendment to the Dumping and Countervailing Duties Act.
85. PSL has referred to a letter from the Ministry to PSL in June 2014 which suggested that actual data on imports of rebar from Thailand post 1 June 2014 may provide a basis estimating the effects of permanently removing the duty. PSL said that it may be too soon after the suspension of the duty for exporter's intentions to have become fully clear and this is likely to be the case for some time yet, quite possibly beyond the review investigative period. PSL said that the temporary nature of the suspension might:
  - (a) On the one hand suggest a rapid flow of exports of rebar from Thailand to take advantage of the suspension; or
  - (b) On the other hand result in a more cautious approach by Thai exporters wishing to see what may occur near the end of the suspension, including whether or not a public interest test is introduced.
86. PSL has pointed to a Cabinet paper in which there is an estimate by the Ministry of the cost savings from removing anti-dumping duties on building materials. PSL said that this is consistent with its submissions of a negative impact on its rebar business which will result from the removal of the duty.

### **Conclusion on Dumping**

87. PSL has provided reasonable evidence that if there is a resumption of rebar exports from Thailand to New Zealand, they are likely to be at dumped prices.
88. PSL has also provided reasonable evidence which shows that there is significant surplus capacity for the production of rebar in Thailand and that there are no significant impediments to a resumption of exports of rebar from Thailand to New Zealand in the absence of the anti-dumping duty.
89. There have been no imports of rebar into New Zealand from Thailand since the suspension of the anti-dumping duty for 3 years from 1 June 2014. This could indicate that the permanent removal of the duty is unlikely to result in a recurrence of dumped imports. Given the time it is likely to take for potential importers of rebar from Thailand to investigate the feasibility of importing rebar from Thailand, to make arrangements with Thai exporters for the supply of the rebar and make any arrangements required for the distribution and sale of the rebar in New Zealand, the Assessment Team considers that it is probably too early to draw any conclusions from the lack of any rebar imports from Thailand since the duty was suspended.
90. The Assessment Team concludes that information provided by PSL constitutes positive evidence of a likelihood of a recurrence of dumping into New Zealand if the current anti-dumping duties were removed.

## Recurrence of Material Injury

91. As noted variously above, there have been no imports of rebar into New Zealand from Thailand for many years. PSL's application therefore relates to the likelihood of a recurrence of injury should the duty be removed permanently.

## Volume Effects

92. In this part of its application PSL has referred to some of the evidence it supplied under the likelihood of a recurrence of dumping, i.e. rebar is available at dumped prices, New Zealand importers remain active, the capacity to export exists in Thailand, the Thai exporters desire growth in export volume, the New Zealand market retains some familiarity from previous sales activity by Thai exporters and the New Zealand market is attractive.
93. PSL has noted that the Thai rebar manufacturing industry is very large and in 2013 produced 3,364,090 tonnes, which is many times larger than the New Zealand market which PSL has estimated to be [REDACTED] tonnes. PSL commented that the [REDACTED] tonnes of rebar exported from Thailand to Australia in the year ended March 2014 would comprise a significant share of the New Zealand rebar market.
94. PSL has submitted that the volume of rebar imported into New Zealand from Thailand before the original investigation was carried out in 2003/04 provides a reasonable basis on which to estimate import volumes in the absence of the duty. PSL said that in the 4 years to December 2002 the average import volume of rebar from Thailand was 5,584 tonnes per annum, with a peak in 2000 of 8,029 tonnes. PSL said [REDACTED] tonnes per annum is its best and most reasonable estimate of likely import volumes.
95. PSL said such a volume of imports has been demonstrated to be injurious and would represent only [REDACTED] percent of Thailand's exports of rebar in 2007 and a similar percentage of Thailand's exports in the year ended March 2014. PSL has estimated that imports from Thailand of this volume would represent about [REDACTED] percent of total rebar imports in 2013 but would represent a much smaller market and import share than was achieved prior to the original investigation in 2003/04.
96. The Assessment Team notes that in the 2009 review the estimate of the likely import volumes in the absence of the duty was the same as that estimated by PSL in this application, based on the same reasoning as that used in this application. Taking into account the approach taken at the last review and the information provided by PSL about the capacity of the Thai industry to export rebar to New Zealand and the openness of the New Zealand market, the Assessment Team considers that the estimate of the volume of imports from Thailand is reasonable in terms of the evidential requirements for initiating an investigation.

## Price effects

### Price undercutting

97. PSL has calculated a simple average of the FOB US\$ base export prices calculated in respect of exports from Thailand to Indonesia, Pakistan and Australia, as explained above. The simple average is [REDACTED] per tonne which PSL has converted to a value of [REDACTED] per tonne.
98. PSL has added estimated costs of ocean freight and destination charges in New Zealand to the ex-wharf level to estimate an ex-wharf cost. PSL said the ocean freight costs encompass ocean freight and a carrier security fee and is based 22 tonnes per 20 foot container and [REDACTED] containers per shipment. The cost is taken from an estimate provided by [REDACTED]. The amount estimated by PSL for these costs is [REDACTED] per tonne. Subsequent to lodging the application, PSL provided a copy of the estimate from [REDACTED]

████████████████████ which the Assessment Team checked against the amount in the application.

99. PSL said the destination charges in New Zealand relate to costs between FOB and ex-wharf. The amount estimated by PSL for these costs is ██████ per tonne. Subsequent to lodging the application, PSL provided a copy of a quote from ██████ for these costs. The calculation of these costs from a cost per container and cost per shipment to a cost per tonne is detailed in Appendix 3 of PSL's application. The Assessment Team agreed the amounts in the quote to the amounts in the Appendix 3 calculation and checked the calculation of the cost per tonne.
100. The ex-wharf price calculated by PSL on the basis outlined above is ██████ per tonne. As explained above the Assessment Team considers that it is more reasonable to base the export price on exports from Thailand to all destinations. The Assessment Team has therefore calculated a simple average at the FOB level of this export price and the export price based on exports to Australia. This yields an FOB price of ██████ per tonne or ██████ per tonne. Adding the adjustments above gives an ex-wharf price of ██████ per tonne.
101. Consistent with the 2009 review, the Assessment Team agrees with PSL that the ex-wharf level of trade is the relevant level at which to compare import prices with PSL's ex-factory price, as it is the first point of competition with the industry in the New Zealand market. This means that the importer's choice is to compare an ex-wharf price for imports with the ex-factory price from PSL.
102. PSL has advised its average ex-factory selling price for rebar in the 2014 financial year (the year ended June 2014) was ██████ per tonne from which it has calculated price undercutting of ██████ per tonne or ██████ percent of its average selling price. Using the alternative ex-wharf price calculated on the basis in paragraph 100 above of ██████ per tonne, the Assessment Team has calculated price undercutting of ██████ per tonne or ██████ percent of PSL's average selling price.

### Price depression and suppression

103. PSL said that the Thai export statistics clearly show that the Thai producers consistently export product to other countries at prices significantly below the undumped price. PSL said that in order to maintain market share and sales volume in the absence of the duty, it will need to ██████ the dumped price of Thai exports. PSL said at the upper bound that price depression is estimated to be at the level of the estimated price undercutting, as outlined above. PSL also submitted that any loss of volume to dumped imports from Thailand would result in price suppression because of an increase in its cost of production per tonne as production declined. PSL said it would not be recoup this increased cost of production because of competition from dumped imports.

### Economic Effects

104. PSL has provided an injury spread sheet showing its financial results for the financial years 2012 to 2014 plus forecasts for the 2015 financial year, along with information over this period on cash flow, capacity utilisation, employment, inventories and return on investments. As there have been no imports into New Zealand of rebar from Thailand for many years, PSL's application has focused on the likely effects of the removal of the duty, as set out below.



## Output and Sales

105. PSL said that in the event of having to compete with dumped imports from Thailand it would endeavour to maintain its market share. PSL noted that the volume of imports from Thailand estimated above of [REDACTED] tonnes represents a likely loss of [REDACTED] percent of its output which would represent a loss of sales revenue of [REDACTED]. PSL said if its efforts to maintain market share through depressing its prices ameliorated the loss of volume, for example by half the import volume estimated above, then the effect would be a [REDACTED] percent decline in output and a [REDACTED] percent decline in sales.

## Profits

106. PSL said that the level of potential price undercutting [REDACTED] for the 2014 financial year, “. . . [REDACTED]” PSL submitted that if in the nearer term the price undercutting by imports from Thailand was only half that estimated above and the import volume was only half that estimated, i.e. price undercutting of [REDACTED] per tonne and import volumes of [REDACTED] tonnes, the effect as measured against the budget for the 2015 financial year, would be a decline in EBIT from [REDACTED] to [REDACTED].

## Market Share

107. PSL said that its share of the New Zealand rebar market in 2013 was estimated to be [REDACTED] percent. PSL said the effect of [REDACTED] tonnes of rebar imported from Thailand, all other things being equal, would be a reduction in its market share of [REDACTED] percentage points.

## Other Economic Effects

108. PSL has submitted that the loss of production volume, sales revenue and profits from a recurrence of dumped imports if the duties were removed would also have significant adverse effects on PSL's achievable return on investments, utilisation of production capacity, cash flow, inventories, employment and growth. PSL did not quantify these effects.

## Other Causes of Injury

109. PSL said it has considered the likely price competitiveness of Thai rebar in the New Zealand market in relation to imports from other countries. PSL said it estimated from the export statistics of the origin country that the largest exporters of rebar to New Zealand are (in order): Malaysia, China, Australia, Singapore, Taiwan, Indonesia and Spain. PSL has calculated an ex-wharf price for imports from each of these countries and compared this price to the estimated ex-wharf price of rebar from Thailand.
110. In all cases except for imports from Indonesia, the estimated ex-wharf price for rebar from Thailand calculated by PSL ([REDACTED]/tonne) is lower than the price from the other countries. In the case of Indonesia the estimated Thai price is [REDACTED] above that of the Indonesian product. This analysis remains essentially the same if the comparison is made with the ex-wharf price estimated by the Assessment Team ([REDACTED]/tonne).
111. PSL has commented that this analysis shows that [REDACTED]. The Assessment Team notes that with the exception of imports from Australia, imports from the other countries also undercut PSL's prices.

## **Causal link**

112. PSL noted that a causal link between the dumped imports and material injury to the New Zealand industry was established in the original investigation in 2003 and in the 2009 review. PSL said that it is not aware of any material difference between the commercial activities and practices which established the causal link in the 2003 and 2009 cases and the conditions today. In support of this view, PSL has noted that the New Zealand rebar industry structure and commercial practice is substantially unchanged since 2009 and the principal New Zealand importers and Thai exporters remain active.

## **Conclusion on injury**

113. PSL has provided a reasonable estimate of the volume of dumped imports that could enter New Zealand if the duty is removed permanently based on actual import volumes prior to the time the original investigation was carried out in 2003/04. PSL has provided an estimate of the likely price of rebar from Thailand which the Assessment Team has adjusted to what it considers to be a more reasonable level. Both the price estimated by PSL and the adjusted price estimated by the Assessment Team show PSL's prices would be significantly undercut. PSL has made reasonable assumptions about the price depression and suppression that is likely to arise from this level of price undercutting.
114. PSL has also made reasonable estimates of the consequent adverse economic impact of these volume and price effects on its output, sales, profits and market share. The Assessment Team considers that this information constitutes positive evidence of a likely recurrence of material injury if anti-dumping duties were removed, sufficient to justify the initiation of a review.

## **Conclusion**

115. In order for a review to be initiated the Act requires a request by an interested party that submits positive evidence justifying the need for a review. The Anti-Dumping Agreement requires that a duly substantiated request must be made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of the anti-dumping duties, and that the expiry would likely lead to a continuation or recurrence of dumping and injury.
116. The Assessment Team is satisfied that an application has been made within a reasonable period of time prior to the expiry of the duties and that it contains positive evidence sufficient to justify the initiation of a review.
117. As noted variously above, the anti-dumping duty on rebar from Thailand has been suspended for 3 years from 1 June 2014. Prior to the suspension of this duty there had been no imports of rebar from Thailand for many years and there has been no resumption of imports since the duty was suspended. As noted above, the Assessment Team considers it is probably too soon after the suspension of the duty to draw conclusions from the lack of imports of rebar from Thailand since the duty was suspended. Any review will need to monitor during the course of the review the extent to which there is a resumption of rebar imports from Thailand and take this into account in making a finding on the likelihood of a recurrence of dumping and injury if the duty was to be permanently removed.

## **Recommendation**

118. It is recommended in accordance with the section 14(8) of the Act and acting under delegated authority, that you:
  - a. Formally initiate a review of the imposition of the anti-dumping duty on rebar from Thailand; and

- b. Sign the attached notice of the initiation of the review for publication in the *New Zealand Gazette*

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