



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**CONSIDERATION REPORT
NOS. 413 AND 414**

**CONSIDERATION OF APPLICATIONS FOR
REVIEWS OF ANTI-DUMPING MEASURES**

**ROD IN COIL EXPORTED TO AUSTRALIA FROM
THE PEOPLE'S REPUBLIC OF CHINA BY:**

**JIANGSU SHAGANG GROUP CO., LTD
HUNAN VALIN XIANGTAN IRON & STEEL CO., LTD**

MAY 2017

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ABBREVIATIONS

ABF	Australian Border Force
ADN	Anti-Dumping Notice
ACBPS	Australian Customs and Border Protection Service
the Act	the <i>Customs Act 1901</i>
China	The People's Republic of China
the applicants	Jiangsu Shagang Group Co., Ltd Hunan Valin Xiangtan Iron & Steel Co., Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	Rod in coil
NIP	non-injurious price
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science ¹
review period	1 April 2016 to 31 March 2017
SG&A	selling, general and administrative

¹ On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of these reviews, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

1 SUMMARY AND RECOMMENDATION

1.1 Background

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of separate applications lodged by Jiangsu Shagang Group Co., Ltd and Hunan Valin Xiangtan Iron & Steel Co., Ltd (the applicants) for reviews in respect of the anti-dumping measures (in the form of a dumping duty notice) relevant to their respective exports of rod in coil (the goods) to Australia from the People's Republic of China (China).

Both applicants consider it appropriate to review the anti-dumping measures because one or more of the variable factors relevant to the taking of the anti-dumping measures have changed. The variable factor that has allegedly changed is the normal value.

The Commission has examined the applications separately, however for administrative convenience has published this combined consideration report.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in dealing with an application for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

1.3 Findings and conclusions

The Commission is satisfied that, in relation to each application for a change in the variable factors:

- the applications comply with subsections 269ZB(1) and (2) of the Act; and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed.

1.4 Recommendation

The Commission recommends that the Commissioner not reject each of the applications for a review of the variable factors for the reasons outlined at sections 1.3 and 3.2 of this report.

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

2 BACKGROUND

2.1 History of the existing anti-dumping measures

Since 2015, the Commission has conducted numerous investigations, reviews and inquiries relating to rod in coil. Full details can be found on the Commission's electronic public record at www.adcommission.gov.au. The matters relevant to the applications are summarised below.

12 August 2015	The Commission initiated an investigation into the alleged dumping of rod in coil exported to Australia from China following an application by OneSteel Manufacturing Pty Ltd.
22 April 2016	The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science published a dumping duty notice applying to rod in coil exported from China – <i>Anti-Dumping Commission Report No. 301</i> refers.

2.2 The current applications

The Commission received the following applications for a review of the anti-dumping measures applying to rod in coil from China:

Jiangsu Shagang Group Co. Ltd

On 1 May 2017, an application was lodged by Jiangsu Shagang Group Co. Ltd requesting a review of the variable factors of normal value applicable to its exports of the goods.

Hunan Valin Xiangtan Iron & Steel Co. Ltd

On 1 May 2017, an application was lodged by Hunan Valin Xiangtan Iron & Steel Co. Ltd requesting a review of the variable factors of normal value applicable to its exports of the goods.

Consideration of the applications

The applications are not prevented by subsection 269ZA(2), which requires that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of a dumping duty notice or a notice declaring the outcome of the last review of the dumping duty notice.³

Pursuant to subsection 269ZC(1), the Commissioner must examine the applications and, within 20 days after receiving them, decide whether to reject the applications.

³ The dumping duty notice in relation to goods exported from China was published on 13 April 2016 and the notice has not yet been reviewed.

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As such, the decision to reject the applications must be made no later than 21 May 2017.

If the Commissioner is not satisfied, having regard to the application and to any other information that he considers relevant, of one or more of the matters referred to in subsection 269ZC(2), the Commissioner must reject the application.

2.3 The goods subject to the anti-dumping measures

The goods the subject of the application (the goods) are:

Hot rolled rods in coils of steel, whether or not containing alloys, that have maximum cross sections that are less than 14mm.

The goods covered by this application include all steel rods meeting the above description regardless of the particular grade or alloy content.

Goods excluded from this application include hot-rolled deformed steel reinforcing bar in coil form, commonly identified as rebar or debar, and stainless steel in coils.

2.4 Tariff classification

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

- 7213.91.00 (statistical code 44);
- 7227.90.90 (statistical code 02); and
- 7227.90.90 (statistical code 42).

3 CONSIDERATION OF THE APPLICATIONS

3.1 Legislative background

Subsection 269ZB(1) requires that the application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that can be required by the form, subsection 269ZB(2) provides that an application must include:

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
 - the variable factors relevant to the taking of the anti-dumping measures that have changed; and
 - the amount by which each such factor has changed; and
 - the information that establishes that amount;
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters which must be considered in making a decision whether to reject an application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
 - that the variable factors relevant to the taking of anti-dumping measures have changed;
 - that the anti-dumping measures are no longer warranted.

3.2 Assessment of the applications for a review of variable factors

3.2.1 Compliance with subsections 269ZB(1) and (2)

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that each of the applications for a review of the variable factors submitted:

- are in writing;
- are in the approved form (*Form B602 – Application for a review of measures*) and contain such information as the form requires (including evidence in support of the amount by which the variable factors have changed since last ascertained and information on the causes of the change to the variable factors and whether these causes are likely to persist);

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- are signed in the manner required by the form;
- were lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provide a description of the kind of goods to which the anti-dumping measures the subject of the applications relate;
- provide a description of the anti-dumping measures the subject of the applications; and
- include a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the anti-dumping measures have changed; the amount by which the variable factors have changed; and information that establishes that amount.

3.2.2 Evidence of change to variable factors

The following sections will address the applicants' claims that there has been a change in variable factors.

Ascertained normal value

In the original investigation (Investigation 301), it was established that, the Government of China influenced the Chinese steel industry, and that this influence is likely to have materially distorted competitive market conditions directly affecting both the price of the primary input used in the manufacture of rod in coil, as well as supply within that industry. The Commission determined that, in accordance with subsection 269TAC(2)(a)(ii), a situation exists in the domestic Chinese steel reinforcing market that renders domestic selling prices in that market unsuitable for the purpose of determining the normal value for rod in coil under subsection 269TAC(1). The Commission constructed the normal values of selected exporters of the goods in accordance with subsection 269TAC(2)(c).

Subsection 269TAC(2)(c) provides that, where the normal value cannot be ascertained under subsection 269TAC(1), the normal value of the goods is to be calculated as:

- the cost of production or manufacture of the goods in the country of export; and
- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the selling, general and administrative costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and 269TAC(5B), the costs of production or manufacture, the selling, general and administrative (SG&A) costs and profit are established in accordance with the regulations. The relevant regulations are sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015*, respectively.

In constructing the normal values in Investigation 301, Chinese exporters' costs for steel billet were not considered reflective of competitive market costs and were

adjusted to reflect a benchmark competitive market cost for steel billet (the benchmark). The benchmark was based on Latin American steel billet export prices at the free on board (FOB) level.

The applicants state that Latin American steel billet export prices have reduced compared to the original investigation period. Both applicants have calculated that the average price for calendar year 2016 was approximately 27.9 per cent lower compared to the original investigation period.

On this basis, the applicants submit that, should the Commission remain satisfied that it is necessary to construct its normal value, the benchmark used in the normal value should be calculated based on contemporary Latin American steel billet export prices.

The Commission considers that the methodology applied to determine normal values in Investigation 301 remains relevant in determining any changes to the ascertained normal value for the purposes of this report. The Commission notes its findings in its 2016 report, *Analysis of Steel and Aluminium Markets Report to The Commissioner of the Anti-Dumping Commission*, where it was found that:

“... analysis of subsidies and tax arrangements for the Chinese steel and aluminium industries, and the operation of state-owned enterprises, indicates that many ... market interventions have been economically inefficient and have resulted in distortions to market outcomes.”⁴

The Commission notes that in addressing the likely change in normal value, the applicants did not comment as to whether the amount of conversion costs, SG&A and profit included in the constructed normal value might have changed. However, the Commission has observed in the past that steel billet represents the single largest proportion of constructed normal values and recognises that an applicant subject to the ‘uncooperative and all other exporters’ variable factors would not have information regarding SG&A and conversion costs which comprise the ascertained normal value.

The Commission considers that the applicants have provided sufficient evidence to establish the statement of its opinion concerning the amount by which the normal value has changed.

3.2.3 Reasonable grounds for review

Based on the Commission’s analysis in section 3.2.2 above, there appear to be reasonable grounds in respect of each application (and by considering the applications collectively) for asserting, in accordance with subsection 269ZC(2)(b)(i), that the variable factors relevant to the taking of anti-dumping measures have changed.

⁴ Page 57, *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission*, August 2016 which is available on the Commission’s website at <http://www.adcommission.gov.au/adsystem/referencematerial>

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Based on this assessment, the Commission recommends that the Commissioner not reject the applications in relation to a change in variable factors pursuant to subsection 269ZC(1), as it is satisfied of the matters referred to in subsection 269ZC(2) in respect of each application.

3.2.4 Scope of the review of variable factors

It is noted that neither application for a review of the variable factors established that there appear to be reasonable grounds for asserting that the non-injurious price (NIP) has changed. However, subsection 269ZA(1)(b) does not require an application for review to claim that all variable factors relevant to the taking of the anti-dumping measures have changed; only that 'one or more' of the variable factors have changed. In addition, given that there are reasonable grounds to establish that the normal value of the goods relevant to the dumping duty notice has changed, it follows that the NIP, which is also relevant to the dumping duty notice, should also be reviewed.

In conducting a review the Commission therefore recommends that all variable factors be reviewed.

3.3 Conclusions and recommendations

3.3.1 Review of the variable factors

The Commission has considered the applications for a change in variable factors in accordance with sections 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the applications and other relevant information, that for each application relating to a change in the variable factors:

- the applications comply with section 269ZB; and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed.

The Commission recommends that the Commissioner:

- not reject the applications for a review of the variable factors; and
- set the review period as 1 April 2016 to 31 March 2017.