10 January 2018

The Director
Operations 2
Anti-Dumping Commission

BY EMAIL operations2@adcommission.gov.au

Dear Director,

Review Inquiry Nos. 411, 412 and 423 (*steel reinforcing bar exported from China by Jiangsu Shagang Group Co., Ltd., Hunan Valin Xiangtan Iron & Steel Co., Ltd. and Jiangsu Yonggang Group Co., Ltd.)*: Australian industry's response to Statement of Essential Facts

OneSteel Manufacturing Pty Ltd, trading as *Liberty OneSteel*, has reviewed the *Statement of Essential Facts No. 411, 412* and *423* (**the SEF**) and makes the following observations in response to the corresponding headings and sub-headings of the SEF.

SUMMARY

Liberty OneSteel considers the Commissioner's proposed use of s 269TAB(2B) of the Act[1] to determine export prices for Hunan Valin Xiangtan Iron & Steel Co., Ltd. (**Hunan Valin**) and Jiangsu Yonggang Group Co., Ltd. (**Yonggang**) as a correct and preferable use of the new legislative provisions. In the case of Jiangsu Shagang Group Co., Ltd. (**Shagang**), given the information available, Liberty OneSteel considers the determination of an export price under s 269TAB(3) was also the correct and preferable decision. However, Liberty OneSteel has some concerns regarding the calculation of the conversion and selling, general and administration costs for Shagang, as the negative dumping margin is only capable of being calculated for that exporter if those costs were significantly below the Chinese industry standard.

The use of the export prices for Hunan Valin and Yonggang determined under s 269TAB(1) in the original investigation is also supported. However, the industry respondent disagrees with the Commissioner's calculation of the timing adjustment under s 269TAB(2G)(a), as it does not apply the best information available to the Commissioner. Liberty OneSteel proposes and alternative calculation methodology based on accurate and verified export price information directly relevant to the Australian market.

Liberty OneSteel supports the Commissioner's proposed use of verified costs of production from competitive market sources for use in the determination of the normal values for the review applicants. However, two issues are highlighted which warrant greater attention: (i) ensuring costs of production, not billet buy-in prices are used; and (ii) excluding Vietnamese exporter and manufacturers costs of production given the Commissioner's conclusions concerning non-market conditions for electricity prices.

[1] References to legislative provisions are references to the *Customs Act 1901*, unless expressly specified.

The Commissioner's proposed recommendation concerning the form of measures (i.e. combination method) be used to calculate the amount of interim dumping duty (**IDD**) payable for Hunan Valin is also supported. Subject to the normal values ascertained for Yonggang and Shagang exceeding their ascertained export prices, then the respondent industry submits that the IDD for these exporters also be calculated according to a combination of fixed and variable duty. If on the other hand, the normal values ascertained for Yonggang and Shagang do not exceed their ascertained export prices, then the industry respondent accepts that the floor price duty calculation method is the correct and preferable approach.

Finally, Liberty OneSteel submits that the Commissioner should recommend in his report to the Parliamentary Secretary that in any notices made under s 269ZDB(1) declaring that different variable factors in respect of each of the exporters, relevant to the determination of duty, then such variable factors should have effect from the date notice under s 269ZC(4) was published with of initiation of each of the reviews.

SUBSTANTIVE SUBMISSIONS

4.3 Export Price

4.3.2 Hunan Valin

4.3.4 Yonggang

Liberty OneSteel agrees with the Commissioner's assessment that the export prices for Hunan Valin and Yonggang should properly be determined by the Parliamentary Secretary in accordance with s 269TAB(2B). The circumstances of these reviews of anti-dumping measures under Division 5 are clear examples of where there is insufficient or unreliable information to ascertain the export prices of the review applicants due to an absence or low volume of exports of those goods to Australia.

Liberty OneSteel has considered the options available to the Parliamentary Secretary under s 269TAB(2B) to determine the export prices and agrees with the Commissioner's assessment that the paragraph (a) presents both the correct and preferable approach, that is to say that it most closely reflects an export price based on identical goods to those originally exported by the respective review applicants (given that it represents the ascertained export price of the review applicants following a decision to publish a notice under s 269TG(1) and (2)).

Given that the export price to be determined under s 269TAB(2b)(a) is based on identical goods to those originally exported to Australia by the respective review applicants, it only remains for a timing adjustment to be made under s 269TAB(2G)(a) to reflect what the export price would have been had there not been an absence or low volume of exports.

Liberty OneSteel observes that the Commissioner has recommended a timing adjustment based on the average movement published steel pricing data from Platts, specifically the percentage by which the average price of goods (purported rebar) exported from China (to any market in the world) has changed between the original investigation period when compared to the average price of the same for the review period.[2] Applied here, the Commissioner calculated the average Platts' published price fell by 1.1 per cent of the review period when compared to the original investigation period.

[2] SEF No. 413 and 414, pp. 15 & 18.

Liberty OneSteel does not consider the Platts' published prices upon which the adjustment factor (1.1 per cent) is calculated to represent the best available information. In fact, superior, verified information is available to the Commissioner courtesy of the verification of exports prices ascertained in *Dumping Investigation 418* and access to the Australian Border Force (**ABF**) import database.

The key weakness of the Platts' published price is that it may not reflect the movement in prices to the Australian market, but rather global export prices on a FOB China-port basis, irrespective of destination. As such the Platts published price may not reflect the market conditions for goods exported to Australia unless it was the lowest in the Australian market, effectively setting the import benchmark price. If however, the Australian market was already more competitive than the average of the Chinese exports markets, then in order for Chinese exported rebar to compete in the Australian market in commercial quantities (i.e. not in low-volumes), the Chinese exporters would have to sell at lower prices commensurate with other sources of rebar exported to Australia (not in low volumes).

Therefore, an adjustment factor based on Australian market conditions may in fact necessary. This is reflected in the language of s 269TAB(2G):

> *If the export price of goods exported to Australia has been ascertained under subsection (2B), the export price may be subject to such adjustments that the Minister determines are **necessary to reflect what the export price would have been had there not been an absence or low volume of exports**…*

Clearly, the provision requires an adjustment that would permit the exporter to sell the goods into the Australian market, i.e. to reflect what the export price would have been had there not been an absence of exports. An adjustment which does not take into account the contemporary competitive market conditions for supply into the Australian market cannot be said to reflect an export price that reverses the "absence or low volume of exports".

On the other hand, a comparison of weighted average export prices of the goods during the original investigation period (which including exports by Hunan Valin and Yonggang), and the weighted average export prices of the like goods during the review period (absent Hunan Valin and Yonggang), provide a more accurate view of conditions in the Australian market, such that if applied as an adjustment factor to the export prices determined under s 269TAB(2B)(a), would more closely reflect the changes necessary in Hunan Valin and Yonggang's export prices to again return to the Australian market, and reverse their "absence of exports".

Table 1 below provides a revised adjustment factor based on the weighted average export prices across the two periods for all exports of rebar straights to Australia. Although calculated from Liberty OneSteel's original Appendix A2 forming part of its application under s 269TB, it is expected that the Commissioner's values will differ following the conclusion of Dumping Investigation No. 418, and as such represents the best available information:

Original investigation period (INV 300)					
	1 Jul to 30 Sep 2014	*1 Oct to 31 Dec 2014*	*1 Jan to 31 Mar 2015*	*1 Apr to 30 Jun 2015*	*Total*
Volume (t)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Export Price (FOB, AUD/t)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
WAV Export Price				**(AUD/t)**	[redacted]

Review period (REV 412 & 423)					
	1 Apr to 30 Jun 2016	*1 Jul to 30 Sep 2016*	*1 Oct to 30 Dec 2016*	*1 Jan to 31 Mar 2017*	*Total*
Volume (t)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Export Price (FOB, AUD/t)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
WAV Export Price				**(AUD/t)**	[redacted]
				Adjustment factor	**-14.8 %**

TABLE 1 Summary of total sales of imports of rebar straights to Australia (Source appendix A2)

Therefore, on the basis of Liberty OneSteel's available import volume and value information, it considers that the downward adjustment factor under s 269TAB(2G) would likely be greater than the 1.1 per cent proposed by the Commissioner.

4.3.3 Shagang

Liberty OneSteel considers the Commission's determination of the export price for Shagang under s 269TAB(3) as suitable given the Commission has accepted evidence that it has no history of exporting goods (in its own right) during the original investigation period and current review period. The Commission's regard to the average of the export prices ascertained for Hunan Valin and Yonggang, are appropriately the best and most relevant information available in the circumstances of this review inquiry.

4.4 Normal Value

Liberty OneSteel considers that the Commissioner is correct to recommend the determination of the review applicants' normal values under s 269TAC(2)(c). Further, Liberty OneSteel considers that the Commissioner's assessment of the costs of production based on billet costs obtained from cooperating exporters and manufacturers in *Dumping Investigation Nos. 416 and 418*, preferable and more accurate than the approach applied in the original Investigation No. 300 – monthly Latin American FOB level steel billet export prices published by Platts minus an average rate of profit realised by the Chinese exporters for the sale of billets in their domestic market.

However, Liberty OneSteel makes two cautionary observations with the Commissioner's proposed approach. Firstly, the Commissioner must ensure that costs of billet production obtained from the cooperating exporters and manufacturers are in fact their billet production costs, and not their purchase price for billet. As the review applicants are in fact fully integrated manufacturers of rebar,[3] it would not be appropriate to factor in buy-in costs of billet incurred by re-rollers. Particular care must here be taken of exporters from Indonesia and Vietnam.

Secondly, given the Commissioner's conclusion in SEF No. 416, that with respect to Vietnam:

> *The cost of electricity is significant to an EAF, with a material amount of the cost of making billet coming from the electricity cost. The verification visit undertaken to Hoa Phat confirmed that electricity is a significant cost component.*

[3] SEF Nos. 413 & 414, p. 21.

> … *The Commission is therefore of the view that the level of control exercised by the [government of Vietnam] on electricity prices has artificially supressed the price of electricity in Vietnam.*[4]

Liberty OneSteel therefore considers that irrespective of the Commissioner's overall conclusions with respect to the existence or otherwise of a market situation in Vietnam for RIC, the use of cost of production information from Vietnamese exporters and manufacturers fails to satisfy the touchstone test under s 43(2) of the *Customs (International Obligations) Regulation 2015*, that costs of production when used in the construction of normal values under s 269TAC(2)(c) must reasonably reflect competitive market costs. Given the Commissioner's conclusion in Investigation No. 416, the Commissioner must exclude the costs of production of Vietnamese exporters and manufacturers from his determination of normal values for the review applicants.

4.6 Determination of constructed normal values

4.6.2 Shagang

The industry respondent is concerned that Shagang's costs to convert steel billet, selling, general and administration costs and/or level of profit applied are potentially inaccurate and/or incomplete following verification. Liberty OneSteel holds this concern because its calculated dumping margin, appears significantly below its review applicant cohorts. Given that all three review applicants have identical steel billet unit costs, and the export price for Shagang was based on an average of the export prices of the other two review applicants, it stands to reason that the normal value variable explains the below average dumping margin.

Liberty OneSteel requests that the Commission review Shagang's conversion (including yield rates) and SG&A costs, and level of profit applied in light of unit values found for comparable exporters, especially its associate Yonggang, and determine whether there are any errors contained in the verified cost information.

6.2 Proposed recommendations

The industry respondent considers that the Commissioner's proposed recommendations also include a recommendation that the Parliamentary Secretary's declaration contained in the notice under s 269ZDB(1) take effect as from the date of notice of initiation of the respective reviews. For the avoidance of doubt, these means the following dates:

- with respect to Hunan Valin and Shagang, 19 May 2017;[5] and
- with respect to Yonggang, 29 June 2017.[6]

Liberty OneSteel considers that in this manner the most current variable factors may apply to any exports made by the respective review applicants, and the refund mechanism under s 269ZDB(3) may be applied to refund any excess IDD paid.

[4] SEF No. 416, p. 32.
[5] ADN 2017/068 refers.
[6] ADN 2017/091 refers.

6.3 Proposed form of duty

Liberty OneSteel welcomes the Commissioner's proposed recommendation to the Parliamentary Secretary that the form of measures applicable to Hunan Valin continue to be the combination duty method.

Subject to the dumping margins determined for Yonggang and Shagang becoming positive and above *de minimis* rates, then the industry respondent also submits that the combination method be used to calculated the amount of IDD for these exporters also. If not, then Liberty OneSteel supports the current duty calculation method proposed based on the floor-price method expressed in terms of their ascertained normal values.

CONCLUSIONS

In light of the above submissions, the Commissioner is encouraged to revise his recommendations to the Parliamentary Secretary as follows:

- revise the timing adjustment factor applied to the export price determined under s 269TAB(2B);
- review the verified costs of Shagang to ensure that its constructed normal value is accurate and complete;
- ensure the costs of production applied in the calculation of the normal values does not include billet purchase costs;
- exclude the costs of production of exporters and manufacturers from Vietnam from the calculation of the normal values; and
- recommend that the Parliamentary Secretary declare that the revised variable factors apply from the date of initiation of the respective reviews.

Should you have any questions concerning this submission, please do not hesitate to contact Liberty OneSteel.

FOR AND ON BEHALF OF THE AUSTRALIAN INDUSTRY

ONESTEEL MANUFACTURING PTY LTD (trading as 'LIBERTY ONESTEEL')