



Australian Government
Department of Industry,
Innovation and Science

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

REPORT

NO. 411, 412 and 423

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
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.**

March 2018

CONTENTS

CONTENTS..... 2

ABBREVIATIONS..... 3

1 SUMMARY 4

1.1 INTRODUCTION.....4

1.2 LEGISLATIVE BACKGROUND4

1.3 FINDINGS5

1.4 RECOMMENDATIONS5

2 BACKGROUND..... 6

2.1 INITIATION.....6

2.2 THE CURRENT MEASURES.....6

2.3 REVIEW PROCESS7

2.4 STATEMENT OF ESSENTIAL FACTS.....8

2.5 EXTENSIONS OF TIME8

3 THE GOODS AND LIKE GOODS..... 9

3.1 THE GOODS SUBJECT TO THE ANTI-DUMPING MEASURES9

3.2 TARIFF CLASSIFICATION9

4 EXPORT PRICE AND NORMAL VALUE..... 10

4.1 FINDINGS10

4.2 EXPORTER QUESTIONNAIRES AND VERIFICATION10

4.3 EXPORT PRICE.....10

4.4 NORMAL VALUE.....22

4.5 CONSTRUCTED NORMAL VALUE.....23

4.6 DETERMINATION OF CONSTRUCTED NORMAL VALUES.....25

4.7 DUMPING MARGINS28

5 NON-INJURIOUS PRICE..... 30

5.1 INTRODUCTION.....30

5.2 COMMISSION’S ASSESSMENT.....30

6 FINDINGS AND PROPOSED RECOMMENDATIONS 31

6.1 FINDINGS31

6.2 RECOMMENDATIONS31

6.3 PROPOSED FORM OF DUTY.....32

7 LIST OF APPENDICES AND ATTACHMENTS..... 33

ABBREVIATIONS

Abbreviation	Full title
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the Assistant Minister	Assistant Minister for Science, Jobs and Innovation
then Assistant Minister	then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
GOC	Government of China
the goods	the goods the subject of the application
Hunan Valin	Hunan Valin Xiangtan Iron & Steel Co., Ltd.
Investigation 300 or 'original investigation'	Anti-Dumping Investigation No. 300
NIP	non-injurious price
OneSteel	Liberty OneSteel Pty Ltd
original investigation period	1 July 2014 to 30 June 2015
REQ	response to the exporter questionnaire
review period	1 April 2016 to 31 March 2017
SEF	statement of essential facts
Shagang	Jiangsu Shagang Group Co., Ltd.
Yonggang	Jiangsu Yonggang Group Co., Ltd.

1 SUMMARY

1.1 Introduction

This report sets out the recommendations which the Commissioner of the Anti-Dumping Commission (the Commissioner) will make to the Assistant Minister for Industry, Innovation and Science (the Assistant Minister) in relation to these reviews of the anti-dumping measures applying to certain steel reinforcing bar (rebar) (also referred to as the goods)¹ exported to Australia from the People's Republic of China (China) by:

- Jiangsu Shagang Group Co., Ltd. (Shagang) (Review 411)
- Hunan Valin Xiangtan iron & Steel Co., Ltd. (Hunan Valin) (Review 412), and
- Jiangsu Yonggang Group Co., Ltd. (Yonggang) (Review 423).

These three reviews are in response to separate applications lodged by Shagang, Hunan Valin, and Yonggang (together, the applicants).

Each application for review is based on a change in the variable factors² relevant to the taking of the anti-dumping measures in relation to the applicant. The variable factors in relation to each of the reviews are the export price, normal value and non-injurious price (NIP).

Due to the common review period,³ and for administrative convenience, the final reports for the three reviews are detailed in this one report.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)⁴ sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for 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 the application, he is required to publish a notice indicating that it is proposed to review the anti-dumping measures covered by the application.⁵

¹ Refer to section 3.3 of this report for a full description of the goods.

² Subsection 269T(4E) of the *Customs Act 1901*.

³ The review period for each review is 1 April 2016 to 31 March 2017.

⁴ All legislative references in this SEF are to the *Customs Act 1901*, unless otherwise specified.

⁵ Subsection 269ZC(4).

PUBLIC RECORD

The Commissioner must, after conducting a review of the variable factors relevant to the taking of the anti-dumping measures, give the Assistant Minister a report recommending that:

- the dumping duty notice remain unaltered; or
- the dumping duty notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.⁶

1.3 Findings

The Commissioner finds, in relation to exports of rebar to Australia from China by the applicants during the period 1 April 2016 to 31 March 2017 (the review period), that, for each review:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- due to the existence of a 'particular market situation' the Assistant Minister is not required to have regard to the desirability of fixing a lesser rate of duty.

1.4 Recommendations

The Commissioner recommends to the Assistant Minister that the notices in respect of the goods have effect as if different variable factors (being the export price and normal value) had been ascertained in respect of Shagang, Hunan Valin and Yonggang.

⁶ Subsection 269ZDA(1)

2 BACKGROUND

2.1 Initiation

On 19 May 2017, the Commissioner gave public notice in Anti-Dumping Notice (ADN) No. 2017/68 of his decision to initiate a review of anti-dumping measures with respect to rebar exported to Australia from China by Shagang and Hunan Valin. The background relating to the initiation of these reviews is contained in Consideration Report No. 411 and 412.⁷

On 29 June 2017, the Commissioner gave public notice in ADN No. 2017/91 of his decision to initiate a review of anti-dumping measures with respect to rebar exported to Australia from China by Yonggang. The background relating to the initiation of this review is contained in Consideration Report No. 423.⁸

2.2 The current measures

Since 2014, the Commission has conducted numerous investigations, reviews and inquiries relating to rebar. Full details can be found on the Commission’s electronic public record at www.adcommission.gov.au. The matters relevant to these reviews applications are summarised below.

1 July 2015	The Commission initiated an investigation into the alleged dumping of rebar exported to Australia from China following an application by OneSteel Manufacturing Pty Ltd – Anti-Dumping Investigation No. 300 (Investigation 300).
16 April 2016	<p>The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (then Assistant Minister) published a dumping duty notice applying to rebar exported to Australia from China – <i>Anti-Dumping Commission Report No. 300</i> refers.</p> <p>The dumping margin found for Hunan Valin was 15.2% and the dumping margin found for Yonggang was 11.7%. The dumping margin for uncooperative and all other exporters of 30.0% was applicable to Shagang.</p>
12 December 2016	Following a review of the then Assistant Minister’s decision by the Anti-Dumping Review Panel, the then Assistant Minister revoked his previous decision and substituted a new decision in the same terms except with different normal values in respect of Hunan Valin and Yonggang, resulting in a dumping margin for Hunan Valin of 12.3% and a dumping margin for Yonggang of 11.5%

The current anti-dumping measures applying to the applicants are in the form of ad valorem duties, with the rates of 12.3 per cent applying to Hunan Valin and 11.5 per cent applying to Yonggang. Shagang is subject to the ‘all other exporters’ rate of duty of 30.0 per cent.

⁷ CON 411 & 412 - [Public Record](#)

⁸ CON 423 – [Public Record](#)

2.3 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those anti-dumping measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for,⁹ or the Assistant Minister may request that the Commissioner conduct,¹⁰ a review of those anti-dumping measures if one or more of the variable factors has changed.

The Assistant Minister may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the notice imposing the original anti-dumping measures or the publication of a notice declaring the outcome of the last review of the notice imposing the original anti-dumping measures.¹¹

If an application for a review of anti-dumping measures is received and not rejected, within 110 days of the initiation of a review, or such longer time as the Assistant Minister may allow, the Commissioner must place on the public record a statement of essential facts (SEF) on which he proposes to base recommendations to the Assistant Minister concerning the review of the anti-dumping measures.¹² The Commissioner has up to 155 days, or such longer time as the Assistant Minister may allow, to conduct a review and report to the Assistant Minister on the review of the anti-dumping measures.¹³

During the course of a review, the Commissioner will examine whether the variable factors have changed. Variable factors in these reviews are a reference to:

- the ascertained export price;
- the ascertained normal value; and
- the NIP.

In his final report the Commissioner must make a recommendation to the Assistant Minister that the notice:¹⁴

- remains unaltered; or
- has effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.

The Assistant Minister must then make a declaration within 30 days of receiving the report or, if the Assistant Minister considers there are special circumstances that

⁹ Subsection 269ZA(1).

¹⁰ Subsection 269ZA(3).

¹¹ Subsection 269ZA(2)(a). At the time that the applications for review were made, the most recent notice declaring the outcome of a review of the dumping duty notice was published on 3 August 2015 (following REP 272 and 273).

¹² Subsection 269ZD(1).

¹³ Subsection 269ZDA(1).

¹⁴ Subsection 269ZDA(1)(a).

PUBLIC RECORD

prevent the declaration being made within that period, such longer period as the Assistant Minister considers appropriate¹⁵ that the notice:¹⁶

- remains unaltered; or
- has effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been fixed relevant to the determination of duty.

The Assistant Minister must give notice of the decision.¹⁷

2.4 Statement of essential facts

On 21 December 2017, the Commissioner placed on the public record the SEF in relation to these three reviews, which set out the essential facts on which the Commissioner proposed to base his final recommendations to the Assistant Minister for each review. The submissions made in response to the SEF are available on the electronic public record on the Commission's website.

2.5 Extensions of time

As noted in ADN No. 2017/122, an extension of time was granted in relation to Reviews 411 (Shagang) and 412 (Hunan Valin) for 41 days on 30 August 2017, for the publication of this SEF and the Final Report. Following this extension of time, two further notices, ADN No. 2017/147 and ADN No. 2017/150, relating to two further extensions of time were published on the Commission's website. The second extension of time related to the complexity associated with the construction of an appropriate raw materials benchmark, while the third extension of time related to legislative amendments made in late 2017.

The *Customs Amendment (Anti-Dumping Measures) Act 2017*, which came into force on 31 October 2017, amended the Act, specifically the provisions concerning the determination of export prices in a review of anti-dumping measures under Division 5 of Part XVB of the Act. Under item 4 of Schedule 1 to the *Customs Amendment (Anti-Dumping Measures) Act 2017*, these amendments apply to current reviews, that is, reviews under Division 5 that were being undertaken immediately before the commencement of the Schedule but for which a declaration in accordance with subsection 269ZDB(1) of the Act had not been made at that time. The Commission therefore must consider the new provisions in the context of these reviews of measures (see section 4.3).

On 29 January 2018 a further extension of time 30 days was granted for the Commissioner to provide his recommendations and Final Report to the Assistant Minister (ADN No. 2018/14 refers). This extension was necessary to allow the Commissioner sufficient time to properly consider and address a number of complex issues raised in submissions by interested parties in response to the SEF.

¹⁵ Subsection 269ZDB(1A).

¹⁶ Subsection 269ZDB(1)(a).

¹⁷ Subsection 269ZDB(1).

3 THE GOODS AND LIKE GOODS

3.1 The goods subject to the anti-dumping measures

The goods the subject of the investigation are:

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

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

Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.

3.2 Tariff classification

At the initiation of the original investigation, Anti-Dumping Notice No. 2015/82 stated that the goods are typically classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7214.20.00 with statistical code 47;
- 7228.30.90 with statistical code 49 (as of 1 July 2015, statistical code 40);
- 7213.10.00 with statistical code 42;
- 7227.90.10 with statistical code 69; or
- 7227.90.90 with statistical codes 02 and 04.

Subsequent to the initiation of this investigation, the Commission found that the goods have been imported under the following additional tariff subheadings:

- 7227.90.90 with statistical code 42 (prior to 1 January 2015);
- 7227.90.90 with statistical code 01;
- 7228.30.10 with statistical code 70; or
- 7228.60.10 with statistical code 72.

The additional tariff classifications do not alter the goods description.

Further information on the goods and like goods is available at Document No. 035 on the [public record](#).

4 EXPORT PRICE AND NORMAL VALUE

4.1 Findings

The Commission has found, in respect of exports of rebar to Australia from China by the applicants, that:

- the ascertained export price has changed; and
- the ascertained normal value has changed.

4.2 Exporter questionnaires and verification

For each review, the Commission provided the applicant with an exporter questionnaire to complete. Each applicant provided detailed information and data in its response to the exporter questionnaire (REQ), including data relating to domestic sales and details of the cost to make and sell (CTMS). Each applicant provided additional information when requested by the Commission.

The Commission conducted an on-site verification of the information provided in Shagang's and Hunan Valin's REQs. Verification reports are available on the Commission's website.

The Commission elected not to conduct an on-site verification of the information provided in Yonggang's REQ. The Commission was able to benchmark the information provided in Yonggang's REQ against the information (domestic sales and CTMS data) provided by the other applicants.

The Commission is satisfied as to the accuracy, relevance and completeness of the information provided by the applicants.

4.3 Export price

4.3.1 Applicable legislation

Export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA. The *Customs Amendment (Anti-Dumping Measures) Act 2017* (amending legislation) amended section 269TAB to introduce specific provisions for exporters with zero or low volumes of exports.

Submission by applicants on retrospective application of legislative amendments.

The applicants submitted that the amendments to section 269TAB should not apply to the current reviews because the reviews "cannot be considered to have been undertaken immediately before the commencement of the amendments". The applicants' submissions cited item 4 of the amending legislation), which noted that, inter alia, the amendments to section 269TAB would apply to "such a review that was being undertaken immediately before the commencement of [Schedule 1] but for which a declaration in accordance with subsection 269ZDB(1) ... had not been made at that time".

PUBLIC RECORD

The exporters submitted that the term ‘immediately’ should be interpreted as applying only to reviews initiated after the Australian Government had announced its intention to amend the Act on 13 September 2017, and not to all reviews underway at the time of the amendments commencing.

The amending legislation does not limit application of the amendments only to reviews initiated after 13 September 2017, or otherwise limit the word ‘immediately’ in the way proposed by the applicants. The Commission considers that ‘immediately’ in item 4(b) of the amending legislation distinguishes between any review undertaken and completed prior to the commencement of the amendment, and those reviews that had been initiated, were underway and not yet completed prior to commencement. The Commission’s view is that the amendments were intended to apply to the latter reviews.

The explanatory memorandum to the *Customs Amendment (Anti-Dumping Measures) Bill 2017* notes the retrospective impact of the amendments:

The purpose of retrospectively applying the specific methods to applications lodged, or reviews being undertaken, prior to commencement is to apply the methods to all reviews currently on foot, without extending to reviews already finalised.

...

Procedural fairness will be afforded to affected parties. Affected parties will be notified of the intention to use the alternative methodologies to calculate their export price. Exporters and interested parties will be invited to make submissions prior to a decision being finalised.

Reviews 411, 412 and 423 were being undertaken immediately before the commencement of the amendments, having been initiated on 29 June 2017. Prior to the commencement of the amendments, the review was still underway, the SEF had not yet been published and no declaration under subsection 269ZDB(1) for the review had been made. Accordingly, the Commission is satisfied that the new provisions in section 269TAB should be considered in this review.

The Commissioner notified the exporters and other interested parties of the approach to determining the export price in the SEF and invited submissions, including on the determination of export price, prior to the recommendation to the Assistant Minister being finalised.

4.3.2 Hunan Valin

It is the Commission’s view that the application of subsection 269TAB(1) would require Hunan Valin to have exported the goods to Australia. As the Commission has found that Hunan Valin did not export the goods to Australia during the review period, the Commission has considered whether the requirements of subsection 269TAB(2A) have been met, and therefore whether Hunan Valin’s export price is to be determined under 269TAB(2B).

For Hunan Valin to be considered a ‘low volume exporter’ in accordance with subsection 269TAB(2A), the Minister must have regard to (i) previous volumes of exports by that exporter, (ii) patterns of trade for like goods, and (iii) factors affecting

PUBLIC RECORD

patterns of trade for like goods that are not within the control of the exporter.¹⁸ The Commission has considered these elements as follows.

Previous volumes of exports by Hunan Valin – subsection 269TAB(2A)(b)(i)

Hunan Valin has previously exported the goods prior to the review period, during both the original investigation period (1 July 2014 to 30 June 2015) and the subsequent quarter. Hunan Valin has not exported the goods to Australia since the September 2016 quarter.

Patterns of trade for like goods – subsection 269TAB(2A)(b)(ii)

As shown below in Figure 1, while exports from China to Australia declined markedly around the time securities were implemented on exports of the goods from China, exports from all other countries increased substantially. The Commission interprets these results as the general market for the goods remaining persistent and that Hunan Valin's lack of exports during the review period does not pertain to a general lack of exports or low volumes of exports to Australia.

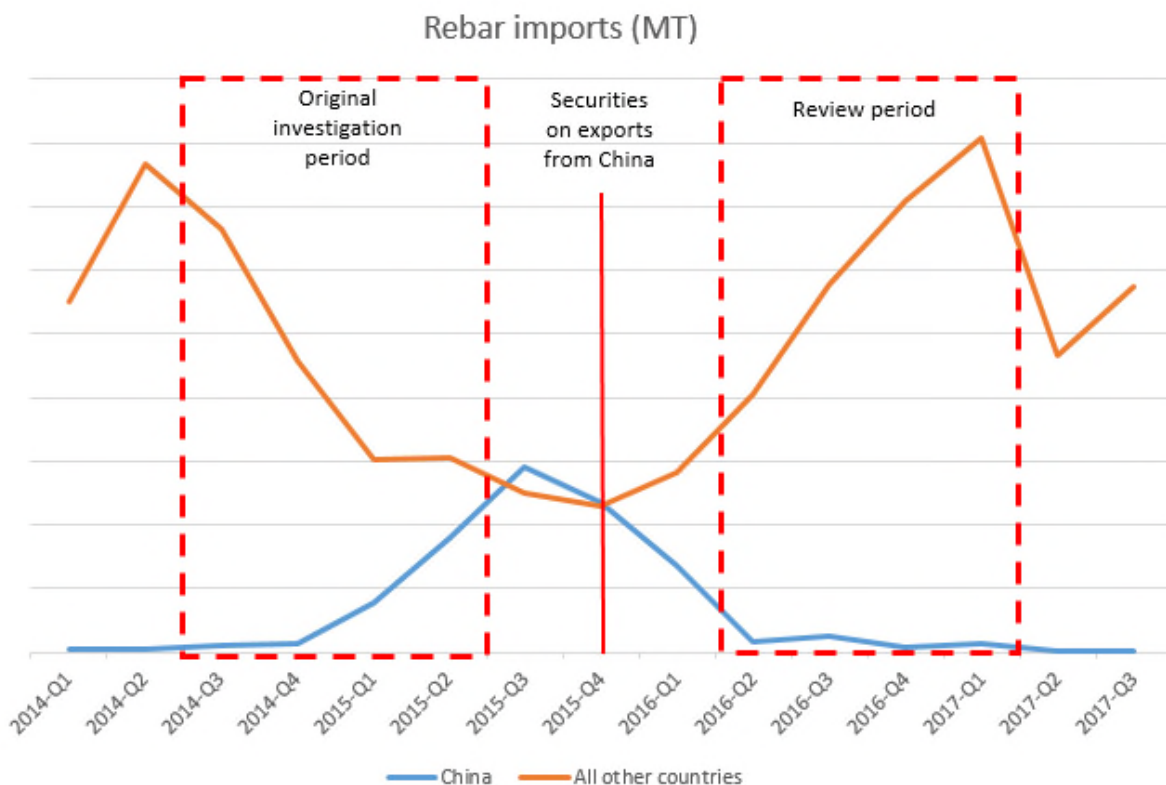


Figure 1

The exporters, in their submissions, have stated that dumping from other countries as well as the dumping measures placed on the applicants exports have prevented them from exporting to Australia.

The reason that there are dumping duties on the applicants' exports of rebar are fully within the control of the affected parties in the sense that they were priced and sold

¹⁸ Subsection 269TAB(2A)(b)

PUBLIC RECORD

by the exporters willingly at that time, and were deemed to have been dumping. In terms of dumping occurring from countries other than China preventing the applicants from exporting, the Commission believes that it in no way prevents the applicants from exporting rebar to Australia. Regardless, the arguments made by the exporters are much broader than the factors outside the exporters' control that the legislative provisions were intended to capture, as explained in the explanatory memorandum, which mentions factors outside the exporter's control such as supply disruptions caused by natural events such as flooding or fire.

Factors affecting patterns of trade – subsection 269TAB(2A)(b)(iii)

The SEF stated that the Commission did not have any information regarding factors outside the exporters' control that would affect their patterns of trade. The explanatory memorandum to the amending legislation defines factors outside the exporter's control as supply disruptions or natural events that reduce production levels (e.g. a flood, drought or fire).

In their submissions in response to the SEF, the applicants, including Hunan Valin, stated that dumping from other countries, as well as the anti-dumping measures placed on the applicants' exports have prevented them from exporting to Australia.

The Commission considers that the anti-dumping measures in place in relation to the applicants' exports to Australia are not a result of factors outside their control. In fact the measures directly resulted from the behaviour of the applicants during the original investigation period, in the sense that the goods were priced and sold by the exporters willingly at that time, and were found to have been dumping.

In terms of dumping occurring from countries other than China preventing the applicants from exporting, the Commission considers that the behaviour of other exporters in no way prevents the applicants from exporting rebar to Australia.

Commission's consideration – subsection 269TAB(2A)

Having regard to the above, the Commission considers Hunan Valin, under subsection 269TAB(2A), to be a 'low volume' exporter. The Commission considers that there is insufficient or unreliable information to ascertain the export price due to an absence or low volume of exports. Hunan Valin previously exported the goods to Australia, despite the reduction in exports to Australia from China imports of rebar overall have remained steady and the Commission's view is that there are no other factors affecting their patterns of trade that are beyond Hunan Valin's control.

The Commission therefore considers it appropriate to ascertain export prices under subsection 269TAB(2B). Under that subsection the Commission is able to determine an export price having regard to any of the following:

- a previous export price for the goods exported to Australia by Hunan Valin established in accordance with subsection 269TAB(1) for a decision of a kind mentioned in subsection 269TAB(2D);¹⁹

¹⁹ Subsection 269TAB(2B)(a)

PUBLIC RECORD

- the price paid or payable for like goods sold by Hunan Valin in arms length transactions for exportation from China to a third country determined by the Minister to be an appropriate third country;²⁰
- an export price for like goods exported to Australia from China by another exporter or exporters established in accordance with subsection 269TAB(1) for a decision mentioned in subsection 269TAB(2D).²¹

Previous export price – subsection 269TAB(2B)(a)

Hunan Valin is listed on the notice pertaining to the original investigation and the Minister determined Hunan Valin's export price under subsection 269TAB(1) for the purposes of publishing the notice under subsection 269TG(2). This is Hunan Valin's current export price. The decision to publish a notice under subsection 269TG(2) is a decision mentioned in subsection 269TAB(2D). Therefore subsection 269TAB(2B)(a) is available for determining the export price.

Third country export price – subsection 269TAB(2B)(b)

As confirmed during a verification visit, Hunan Valin did not export rebar to any third countries during the review period,²² therefore subsection 269TAB(2B)(b) is not available for determining the export price.

Another exporter's export price – subsection 269TAB(2B)(c)

Shandong Shiheng Special Steel Group, Shandong Iron and Steel Company Ltd, Laiwu Company and Yonggang are all exporters listed on the notice pertaining to the original investigation for which the Minister determined an export price under subsection 269TAB(1) for the purposes of publishing the notice under subsection 269TG(2). The decision to publish a notice under subsection 269TG(2) is a decision mentioned in subsection 269TAB(2D). Notice of the decision under subsection 269TG(2) was published on 13 April 2016, which is within two years before the notice of this review under subsection 269ZC(4) was published, which occurred on 19 May 2017²³. Therefore subsection 269TAB(2B)(c) is also available for determining the export price.

Commission's consideration – subsection 269TAB(2B)

Only two options under subsection 269TAB(2B) are available for determining Hunan Valin's export price²⁴ and there is no hierarchy in the Act.

The Commission has considered both options and finds that ascertaining Hunan Valin's export price under 269TAB(2B)(a) having regard to its current export price established in accordance with subsection 269TAB(1) in the dumping duty notice is

²⁰ Subsection 269TAB(2B)(b)

²¹ Subsection 269TAB(2B)(c)

²² See Hunan Valin exporter visit report, document 008 on the electronic public record (EPR 412) on the Commission's website www.adcommission.gov.au

²³ Per subsection 269TAB(2E)

²⁴ Subsections 269TAB(2B)(a) and (c)

PUBLIC RECORD

the most appropriate as it reflects actual prices received by the particular exporter for the specific grades of rebar and products sold in the Australian market.

Adjustments to the export price – subsection 269TAB(2G)

Subsection 269TAB(2G) allows the Minister to make adjustments to the export price ascertained under subsection 269TAB(2B) to reflect what the export price would have been had there not been an absence of exports by Hunan Valin. Such adjustments may include:

- adjustments due to exports relating to earlier times (timing adjustment);²⁵
- adjustments due to exports relating to not identical goods (specification adjustment);²⁶

Hunan Valin's current export price is based on exports to Australia during the original investigation period 1 July 2014 to 30 June 2015. The Commission notes that global steel prices have moved since that time.

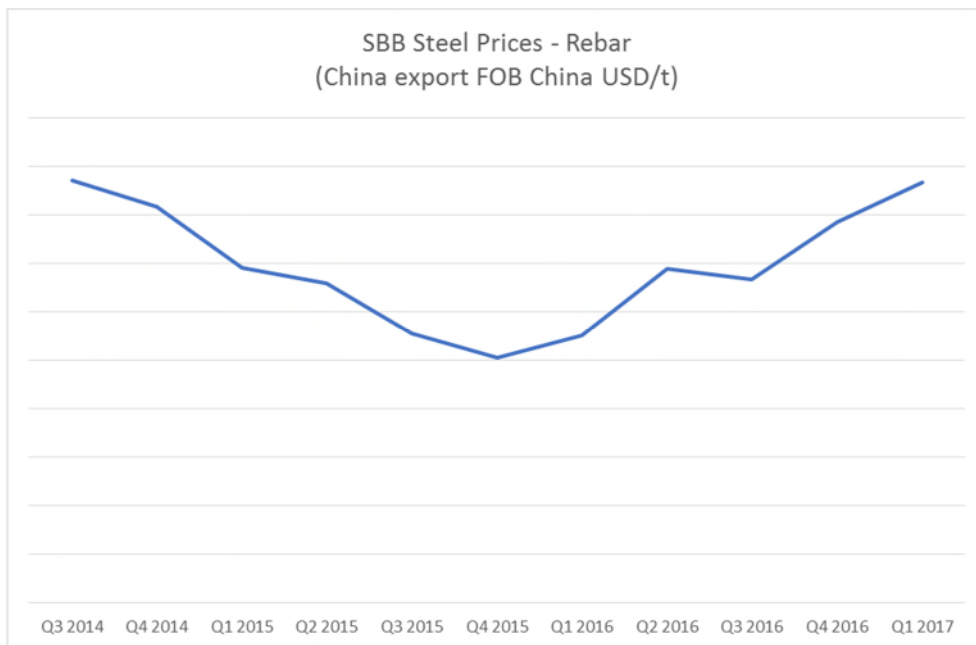


Figure 2

The Commission therefore considers that a timing adjustment is required to reflect what Hunan Valin's export price would have been during the review period. The Commission has used published steel pricing data from Platts, specifically the average price of rebar exported from China for the original investigation period compared to the average price of the same for the review period. The Commission notes that the average price for the review period is 1.1 per cent lower than for the original investigation period. Accordingly, the Commission has adjusted the export price determined during the original investigation by decreasing it by 1.1 per cent to reflect the lower prices for rebar during the review period.

²⁵ Subsection 269TAB(2G)(a)

²⁶ Subsection 269TAB(2G)(b)

PUBLIC RECORD

As a result, the ascertained export price for Hunan Valin's exports of the goods has changed. Details of the export price calculations for Hunan Valin are at **Review 412 - Confidential Appendix 1**.

Submission by applicants regarding timing adjustment

In their submissions in response to the SEF, Hunan Valin and Yonggang submitted that the Commission has erred in its determination of a timing adjustment under subsection 269TAB(2G). They suggest that the Commission should calculate the timing adjustment factor based on the quarterly movement of prices between the original investigation period and the review period. In essence they suggest comparing the change in rebar prices from quarter 1 in the original investigation period to quarter 1 in the review period, and as such for the remaining quarters.

This approach, however, does not provide an accurate trend in the price of rebar between the original investigation period and the review period. Specifically, the individual respective quarters in 2014-2015 and 2016-2017 are not related in any way, but rather it is the overall trend in consecutive quarters in the interim time between periods which describes the change in price. Perhaps if there was a seasonal function in the price of rebar, the exporters' claim may have more merit, but as it stands, the Commission considers that comparing one quarter in a different time frame to another without considering the interceding quarters is arbitrary.

In the case that the Commission did not agree with the exporters' submission relating to the aforementioned suggest timing adjustment, an alternative timing adjustment was also offered by the exporters. This methodology, as submitted by the exporters, suggest that the relative quarterly volumes of exports made by the exporters during the original investigation period be taken into account when calculating the timing adjustment factor.

The Commission disagrees with this method in that the aim of the timing adjustment factor is to discern the general price movement of rebar exported from China, which has little bearing on any individual exporter or the particular quarters within the respective period that a particular exporter exported the goods.

Submission made by Australian industry regarding timing adjustment for export prices

In its submission in response to the SEF, Liberty OneSteel Pty Ltd (OneSteel) states that rather than relying on Platts steel price data for determining an adjustment factor, it should instead use rebar price data obtained through Investigation 418 and the Australian Border Force import database. OneSteel's reasoning being that these data sets would provide a more accurate change in price for imported rebar into Australia, rather than the general price movement associated with Chinese exports.

The Commission, however, concludes that this approach is not preferable as it would involve adjusting export prices from China by reference to export prices from countries other than China.

Furthermore, considering that exports from China have, since the imposition of measures, declined significantly, the Australian import price levels of rebar is unlikely to be indicative of Chinese exports. The index chosen by the Commission is therefore a more accurate guide to the movement of the import price of rebar from China.

4.3.3 Shagang

It is the Commission's view that the application of subsection 269TAB(1) would require Shagang to have exported the goods to Australia. As the Commission has found that Shagang did not export the goods to Australia during the review period, the Commission has considered whether the requirements of subsection 269TAB(2A) have been met, and therefore whether Shagang's export price is to be determined under 269TAB(2B) or subsection 269TAB(3).

For Shagang to be considered a 'low volume exporter' in accordance with subsection 269TAB(2A), the Minister must have regard to (i) previous volumes of exports by that exporter, (ii) patterns of trade for like goods, and (iii) factors affecting patterns of trade for like goods that are not within the control of the exporter.²⁷

Previous volumes of exports by Shagang – subsection 269TAB(2A)(b)(i)

Shagang has not previously exported the goods prior to the review period. The Commission notes that the explanatory memorandum for the *Customs Amendment (Anti-Dumping Measures) Act 2017* states:

[...] where an Exporter has never exported the goods subject to measures to Australia. In a review of measures in relation to that Exporter, if there have still been no exports, it may be appropriate to determine that Exporter's export price under subsection 269TAB(3) despite the methods in new subsection 269TAB(2B).

Patterns of trade for like goods – subsection 269TAB(2A)(b)(ii)

As shown above in Figure 1, while exports from China to Australia declined markedly around the time securities were implemented on exports of the goods from China, exports from all other countries increased substantially. The Commission interprets these results as the general market for the goods remaining persistent and that Shagang's lack of exports during the review period does not pertain to a general lack of exports or low volumes of exports to Australia.

Factors affecting patterns of trade – subsection 269TAB(2A)(b)(iii)

The SEF stated that the Commission did not have any information regarding factors outside the exporters' control that would affect their patterns of trade. The explanatory memorandum to the amending legislation mentions factors outside the exporter's control such as supply disruptions or natural events that reduce production levels (e.g. a flood, drought or fire).

In their submissions in response to the SEF, the applicants, including Shagang, stated that dumping from other countries, as well as the anti-dumping measures placed on the applicants' exports have prevented them from exporting to Australia.

The Commission does not consider these to be factors beyond the applicants' control, as discussed above at 4.3.2.

²⁷ Subsection 269TAB(2A)(b)

Commission's consideration – subsection 269TAB(2A)

Having regard to the above, the Commission considers Shagang, under subsection 269TAB(2A), not to be a 'low volume' exporter. Shagang has not previously exported the goods to Australia, so it has no previous volume of exports of the goods, nor any decline in its exports. In this case, the Commission considers that it is not preferable to determine Shagang's export price under subsection 269TAB(2B).

The Commission therefore considers it appropriate to determine the export price of the goods under subsection 269TAB(3) having regard to all relevant information.

The Commission has considered all relevant information and is of the view that an exporter who has not previously exported the goods into the Australia market will foremost, to be competitive, need to make decisions about the types of product demanded by the Australian market, and from that basis, decisions about the pricing of those products. The Commission is further of the view that factors such as product type and pricing will differ across markets, including between domestic markets and export markets.

The Commission notes that setting an ascertained export price based on an exporter's normal value as determined under subsection 269TAC(1) fundamentally involves setting the export price to reflect the product composition as it relates to the domestic market. For this review, the Commission considers that information about an exporter's sales into a domestic market does not represent the most relevant and reliable information for determining an ascertained export price under subsection 269TAB(3) where comprehensive, verified information about the Australian market is available for the review period.

For these reasons the Commission has determined an export price for Shagang pursuant to subsection 269TAB(3), having regard to all relevant information, as the average of the export prices ascertained for Hunan Valin and Yonggang as discussed in this report.

As a result, the ascertained export price applicable to exports of the goods by Shagang has changed. Details of the export price calculations for Shagang are at **Review 411 - Confidential Appendix 1**.

4.3.4 Yonggang

It is the Commission's view that the application of subsection 269TAB(1) would require Yonggang to have exported the goods to Australia. As the Commission has found that Yonggang did export a relatively small amount of the goods to Australia during the review period, the Commission has considered whether the requirements of subsection 269TAB(2A) have been met, and therefore whether Yonggang's export price is to be determined under 269TAB(2B).

For Yonggang to be considered a 'low volume exporter' in accordance with subsection 269TAB(2A), the Minister must have regard to (i) previous volumes of exports by that exporter, (ii) patterns of trade for like goods, and (iii) factors affecting patterns of trade for like goods that are not within the control of the exporter.²⁸ The Commission has considered these elements as follows.

²⁸ Subsection 269TAB(2A)(b)

PUBLIC RECORD

Previous volumes of exports by Yonggang – subsection 269TAB(2A)(b)(i)

Yonggang has previously exported the goods prior to the review period, during both the original investigation period and subsequently thereafter, and in relatively higher volumes than that recorded during the review period.

In its submission in response to the SEF, Yonggang stated that it should not be considered a low volume exporter on the grounds that, although, its previous exports during the original investigation period were higher than that of the review period, the relative difference was negligible. The Commission notes that the new legislation does not specify a previous period to compare to the relevant exports during the review period. While Yonggang's export volumes during the review period and original investigation period may be similar, analysis of import data from the Australian Border Force shows that the volume of exports made by Yonggang in the twelve months immediately prior to the review period were 28 times greater than the volume during the review period.

Yonggang further submitted that its exports during the investigation period and review period represent a negligible portion of the total Australian rebar market and its own production capacity. The legislation is explicit in that it applies to the patterns of trade by the particular exporter concerned, therefore the relative magnitude of exports by Yonggang in relation to the total rebar market and its own production capacity are irrelevant considerations.

Patterns of trade for like goods – subsection 269TAB(2A)(b)(ii)

As shown above in Figure 1, while exports from China to Australia declined markedly around the time securities were implemented on exports of the goods from China, exports from all other countries increased substantially. The Commission interprets these results as the general market for the goods remaining persistent and that Yonggang's relatively small amount of exports during the review period does not pertain to a general lack of exports or low volumes of exports to Australia.

Factors affecting patterns of trade – subsection 269TAB(2A)(b)(iii)

The SEF stated that the Commission did not have any information regarding factors outside the exporters' control that would affect their patterns of trade. The explanatory memorandum to the amending legislation defines factors outside the exporter's control as supply disruptions or natural events that reduce production levels (e.g. a flood, drought or fire).

In their submissions in response to the SEF, the applicants, including Yonggang, stated that dumping from other countries, as well as the anti-dumping measures placed on the applicants' exports have prevented them from exporting to Australia.

The Commission does not consider these to be relevant factors beyond the applicants' control, as discussed above at 4.3.2.

Commission's consideration – subsection 269TAB(2A)

Having regard to the above, the Commission considers Yonggang, under subsection 269TAB(2A), to be a 'low volume' exporter. Yonggang previously exported the goods to Australia, despite the reduction in exports to Australia from China imports of rebar

PUBLIC RECORD

overall have remained steady and, the Commission is not aware of any factors affecting the patterns of trade that are beyond Yonggang's control.

The Commission therefore considers it appropriate to ascertain export prices under subsection 269TAB(2B). Under that subsection the Commission is able to determine an export price having regard to any of the following:

- a previous export price for the goods exported to Australia by Yonggang established in accordance with subsection 269TAB(1) for a decision of a kind mentioned in subsection 269TAB(2D);²⁹
- the price paid or payable for like goods sold by Yonggang in arms length transactions for exportation from China to a third country determined by the Minister to be an appropriate third country;³⁰
- an export price for like goods exported to Australia from China by another exporter or exporters established in accordance with subsection 269TAB(1) for a decision mentioned in subsection 269TAB(2D).³¹

Previous export price – subsection 269TAB(2B)(a)

Yonggang is listed on the notice pertaining to the original investigation and the Minister determined Yonggang's export price under subsection 269TAB(1) for the purposes of publishing the notice under subsection 269TG(2). This is Yonggang's current export price. The decision to publish a notice under subsection 269TG(2) is a decision mentioned in subsection 269TAB(2D). Therefore subsection 269TAB(2B)(a) is available for determining the export price.

Third country export price – subsection 269TAB(2B)(b)

Yonggang exported rebar to a number of third countries during the review period, therefore subsection 269TAB(2B)(b) is available for determining the export price.

Another exporter's export price – subsection 269TAB(2B)(c)

Hunan Valin, Shandong Shiheng Special Steel Group and Shandong Iron and Steel Company Ltd, Laiwu Company are all exporters listed on the notice pertaining to the original investigation for which the Minister determined an export price under subsection 269TAB(1) for the purposes of publishing the notice under subsection 269TG(2). The decision to publish a notice under subsection 269TG(2) is a decision mentioned in subsection 269TAB(2D). Notice of the decision under subsection 269TG(2) was published on 13 April 2016, which is within two years before the notice of this review under subsection 269ZC(4) was published, which occurred on 19 May 2017.³² Therefore subsection 269TAB(2B)(c) is also available for determining the export price.

²⁹ Subsection 269TAB(2B)(a)

³⁰ Subsection 269TAB(2B)(b)

³¹ Subsection 269TAB(2B)(c)

³² Per subsection 269TAB(2E)

Commission's consideration – subsection 269TAB(2B)

All three options under subsection 269TAB(2B) are available for determining Yonggang's export price and there is no hierarchy in the Act.

The Commission has considered all three options and finds that ascertaining Yonggang's export price under 269TAB(2B)(a) having regard to its current export price established in accordance with subsection 269TAB(1) is the most appropriate as it reflects actual prices received by the particular exporter for the specific grades of rebar and products sold in the Australian market.

An export price based on Yonggang's third country sales would require the Minister to determine an appropriate third country from a large number of possible countries and make specification adjustments due to differences in grades and standards between that country and Australia.

Adjustments to the export price – subsection 269TAB(2G)

Subsection 269TAB(2G) allows the Minister to make adjustments to the export price ascertained under subsection 269TAB(2B) to reflect what the export price would have been had there not been an absence of exports by Yonggang. Such adjustments may include:

- adjustments due to exports relating to earlier times (timing adjustment);³³
- adjustments due to exports relating to not identical goods (specification adjustment);³⁴

Yonggang's current export price is based on exports to Australia during the original investigation period 1 July 2014 to 30 June 2015. The Commission notes that global steel prices have moved since that time as depicted in Figure 2, above.

The Commission therefore considers that a timing adjustment is required to reflect what Yonggang's export price would have been during the review period. The Commission has used published steel pricing data from Platts, specifically the average price of rebar exported from China for the original investigation period compared to the average price of the same for the review period. The Commission notes that the average price for the review period is 1.1% lower than for the original investigation period. Accordingly, the Commission has adjusted the export price determined during the original investigation by decreasing it by 1.1% to reflect the lower prices for rebar during the review period.

As a result, the ascertained export price for Yonggang's exports of the goods has changed. Details of the export price calculations for Yonggang are at **Review 423 - Confidential Appendix 1**.

Submissions regarding timing adjustment

In their submissions in response to the SEF, Yonggang and OneSteel raised concerns with the timing adjustment made under subsection 269TAB(2G). The Commission has addressed these concerns above at 4.3.2.

³³ Subsection 269TAB(2G)(a)

³⁴ Subsection 269TAB(2G)(b)

4.4 Normal value

4.4.1 Applicable legislation

Subsection 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter, or, if like goods are not so sold by the exporter, by other sellers of like goods.

However, subsection 269TAC(2)(a)(ii) provides that, where the Assistant Minister is satisfied that:

...because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1),

the normal value of the goods exported to Australia cannot be ascertained under subsection 269TAC(1).

Where such a 'particular market situation' exists, the normal value can be determined on the basis of a cost construction (subsection 269TAC(2)(c)), or third country sales (subsection 269TAC(2)(d)).

4.4.2 Particular market situation

Investigation 300 established that, in accordance with subsection 269TAC(2)(a)(ii), a situation exists in the domestic Chinese market that renders domestic selling prices of rebar as being unsuitable for the purposes of determining normal values for rebar under subsection 269TAC(1), i.e. a particular market situation.

Accordingly, normal values for cooperating exporters were constructed pursuant to 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.

During Investigation 300, it was found that, in determining the cost of manufacture of the goods, the records of Chinese exporters of rebar did not reasonably reflect competitive market costs associated with the production and manufacture of those goods, for the purposes of section 43 of the *Customs (International Obligations) Regulation 2015* (the Regulation).

Specifically, the Commission then indicated that:

The Commission considers that direct and indirect influences of the Government of China affect Chinese manufacturers' costs to produce steel billet.

PUBLIC RECORD

Because steel billet costs represent a significant proportion of the cost to manufacture rebar, Investigation 300 replaced the steel billet costs recorded in the exporters' records in order to reflect a competitive market cost for steel billet when constructing normal values.

In the applicants' original applications, no claims were made regarding the particular market situation found in Investigation 300. Additionally, no submissions were made during or after the verification visits regarding the particular market situation found in Investigation 300.

After the Commission initiated the current reviews, a questionnaire was sent to the Government of China (GOC) to ascertain whether the market situation found in Investigation 300 had changed. The GOC, however, did not provide a response to the questionnaire.

Furthermore, the Commission considers that since the final report for Investigation 300 was published on 13 April 2016, it is unlikely the market situation found then has changed significantly. Additionally, both Hunan Valin and Yonggang (which is also related to Shagang) were cooperating exporters during the original investigation, and the Commission considers those companies are likely to be operating under similar conditions to that found in the original investigation. The Commission also notes that the GOC's 13th Five Year Economic Development Plan referenced in the market situation assessment for Investigation 300 is still current.³⁵

In the absence of any information to indicate that the particular market situation found in Investigation 300 has changed, the Commission considers that the GOC continues to exert numerous influences on the Chinese iron and steel industry, including the producers of steel billet specifically for the production of rebar, which has substantially distorted competitive market conditions in the rebar industry in China.

The Commission therefore considers that a particular market situation for rebar exists, and that the normal values for the applicants cannot be ascertained under subsection 269TAC(1). The Commission has therefore ascertained the normal values for Shagang, Hunan Valin, and Yonggang under subsection 269TAC(2)(c).

4.5 Constructed normal value

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 had been sold for home consumption in the ordinary course of trade in the country of export, the administrative, selling and general costs associated with such a sale and the profit on that sale.

³⁵ *Anti-Dumping Commission Report No. 300*, p. 91

4.5.1 Cost of production

As noted above, subsection 269TAC(2)(c) requires that the cost of production or manufacture of the goods be used in determining constructed normal values. As required by subsection 269TAC(5A)(a), the cost of production or manufacture must be worked out in accordance with section 43 of the Regulation.

To determine the cost of production or manufacture, subsection 43(2) requires that if:

- an exporter or producer keeps records relating to like goods that are in accordance with generally accepted accounting principles in the country of export; and
- those records reasonably reflect competitive market costs associated with the production or manufacture of like goods;

the Assistant Minister must work out the cost of production or manufacture using information set out in the exporter or producer's records.

It is the Commission's policy and practice that, where the conditions of subsection 43(2) of the Regulation are not met, the cost records kept by that exporter are not required to be used in working out their costs, and the Commission may resort to other information to calculate these costs.

Given the significant distortions in the steel market in China outlined in section 4.4.2 of this report, the Commission considers applicant's recorded costs of steel billet do not reflect competitive market costs.

Approach to replacing steel billet costs in Investigation 300

In Investigation 300, the Commission substituted the cooperating exporters' fully absorbed steel billet CTM values with the corresponding Latin American FOB level steel billet export price from Platts for the month minus an average rate of profit that the Chinese exporters realised for the sale of billets in their domestic market.

Approach to replacing HRC costs in current reviews

For the purpose of these reviews, the Commission has available to it verified steel billet costs obtained from cooperating exporters and manufacturers in Investigations 416 and 418. The Commission considers that in the current case these verified costs most accurately reflect the cost of production of steel billet relevant to the manufacture of the goods exported to Australia during the review period.

Given that the applicants are fully-integrated manufacturers of the goods, and given the availability of verified and relevant information from Investigations 416 and 418, the Commission considers that it is appropriate to use verified costs of steel billet manufacturers (at comparable terms) in Indonesia, Spain, and Taiwan for the purpose of replacing the applicants' steel billet costs.

The Commission has verified cost data, relating to steel billet costs for the period 1 April 2016 to 31 March 2017, encompassing all four quarters of the review period.

Details of the competitive market cost benchmark calculation is at **Confidential Appendix 1 – Steel billet benchmark**.

4.5.2 Submissions regarding steel billet benchmark

Submissions from applicants regarding steel billet benchmark calculation

The applicants have submitted that, because the applicants are all integrated steel producers, an amount for profit should be deducted from those non-integrated rebar exporters included in the benchmark calculation. This profit amount would be to ensure that the billet costs are comparable between non-integrated and integrated manufacturers of rebar, as those non-integrated producers would be buying billet from suppliers who would, presumably be making a profit from the sale.

The Commission agrees with the premise of the applicants' submission, but has instead removed non-integrated producers from the calculation of the competitive benchmark for billet, to ensure that the billet costs are more comparable to the applicants'.

Submission from Australian industry

The Australian industry raised concerns that artificially low electricity prices in Vietnam, as discerned in Investigation 416, might make it unsuitable to include Vietnamese producers in the Commission's calculation of a billet benchmark cost. The Commission confirms that no producers from Vietnam are included in the calculation of its billet benchmark cost.

4.6 Determination of constructed normal values

4.6.1 Hunan Valin

As outlined in section 4.4.2 of this report, the Commission considers the steel billet costs provided by Hunan Valin do not reasonably reflect competitive market costs. Therefore, the Commission has replaced Hunan Valin's steel billet costs with a competitive market cost benchmark.

As required by subsection 269TAC(5A)(b), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the selling, general and administrative costs for Hunan Valin have been determined in accordance with subsection 44(2) of the Regulation.

In addition, as required by subsection 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the amount of profit included in the normal value is to be determined having regard to section 45 of the Regulation. Subsection 45(2) of the Regulation requires that, where reasonably practicable, profit must be worked out using data relating to the production and sale of like goods by the exporter or producer of the goods in the ordinary course of trade.

Accordingly, the Commission has calculated a profit margin for like goods. The calculation of this profit margin was based on domestic sales of like goods in the ordinary course of trade, the selling prices of which were compared to Hunan Valin's actual cost to make and sell of those goods (i.e. prior to replacing Hunan Valin's recorded steel billet costs as discussed above).

PUBLIC RECORD

In order to ensure the normal value is properly comparable with the export price of the goods, the Commission adjusted Hunan Valin's normal value in accordance with subsection 269TAC(9). The normal value for Hunan Valin has been calculated at the FOB level, cash terms. The below table summarises the adjustments made to Hunan Valin's normal value.

Adjustment Type	Deduction/addition
Export inland freight, handling and port charges	Add the cost of inland freight, handling and port charges
Non-refundable VAT	Add the portion of non-refundable VAT, on the assumption that the goods, instead of being sold domestically, were to have been exported.

The resulting ascertained normal value for Hunan Valin in respect of rebar has changed since Investigation 300.

Submission in response to the SEF

Hunan Valin has submitted that in the normal value calculations for the SEF, the Commission erred in using a normal value that included costs and profits from all domestic models of like goods.

In the case of profit, the Commission concludes that it has acted in accordance with Regulation 45(2), in that profit was calculated on all like goods sold on the domestic market in the ordinary course of trade.

The Commission has, for the final report, used only costs from comparable models from Hunan Valin's domestic sales to those that were originally included in its export price ascertained in Investigation 300.

Hunan Valin also submitted that selling, general and administrative costs, as a percentage, were applied to an uplifted cost to make. This has been corrected so that selling, general and administrative costs have been applied, in percentage terms, to its actual cost to make.

Details of the normal value calculations for Hunan Valin are at **Review 412 - Confidential Appendices 2 to 4**.

4.6.2 Shagang

As outlined in section 4.4.2 of this report, the Commission considers the steel billet costs provided by Shagang do not reasonably reflect competitive market costs. Therefore, the Commission has replaced Shagang's steel billet costs with a competitive market cost benchmark.

As required by subsection 269TAC(5A)(b), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the selling, general and administrative costs for Shagang have been determined in accordance with subsection 44(2) of the Regulation.

PUBLIC RECORD

In addition, as required by subsection 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the amount of profit included in the normal value is to be determined having regard to section 45 of the Regulation. Subsection 45(2) of the Regulation requires that, where reasonably practicable, profit must be worked out using data relating to the production and sale of like goods by the exporter or producer of the goods in the ordinary course of trade.

Accordingly, the Commission has calculated a profit margin for like goods. The calculation of this profit margin was based on domestic sales of like goods in the ordinary course of trade, the selling prices of which were compared to Shagang's actual cost to make and sell of those goods (i.e. prior to replacing Shagang's recorded steel billet costs as discussed above).

In order to ensure the normal value is properly comparable with the export price of the goods, the Commission adjusted Shagang's normal value in accordance with subsection 269TAC(9). The normal value for Shagang has been calculated at the FOB level, cash terms. The below table summarises the adjustments made to Shagang's normal value.

Adjustment Type	Deduction/addition
Export inland freight, handling and port charges	Add the cost of inland freight, handling and port charges
Non-refundable VAT	Add the portion of non-refundable VAT, on the assumption that the goods, instead of being sold domestically, were to have been exported.

Submission in response to the SEF

Shagang submitted, in response to the SEF, that the incorrect material costs were used in the calculation of its normal value. This has now been corrected.

The resulting ascertained normal value for Shagang in respect of rebar has changed since Investigation 300.

Details of the normal value calculations for Shagang are at **Review 411 - Confidential Appendices 2 to 4**.

4.6.3 Yonggang

As outlined in section 4.4.2 of this report, the Commission considers the steel billet costs provided by Yonggang do not reasonably reflect competitive market costs. Therefore, the Commission has replaced Yonggang's steel billet costs with a competitive market cost benchmark.

As required by subsection 269TAC(5A)(b), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the selling, general and administrative costs for Yonggang have been determined in accordance with subsection 44(2) of the Regulation.

PUBLIC RECORD

In addition, as required by subsection 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the amount of profit included in the normal value is to be determined having regard to section 45 of the Regulation. Subsection 45(2) of the Regulation requires that, where reasonably practicable, profit must be worked out using data relating to the production and sale of like goods by the exporter or producer of the goods in the ordinary course of trade.

Accordingly, the Commission has calculated a profit margin for like goods. The calculation of this profit margin was based on domestic sales of like goods in the ordinary course of trade, the selling prices of which were compared to Yonggang's actual cost to make and sell of those goods (i.e. prior to replacing Yonggang's recorded steel billet costs as discussed above).

In order to ensure the normal value is properly comparable with the export price of the goods, the Commission adjusted Yonggang's normal value in accordance with subsection 269TAC(9). The normal value for Yonggang has been calculated at the FOB level, cash terms. The below table summarises the adjustments made to Yonggang's normal value.

Adjustment Type	Deduction/addition
Export inland freight, handling and port charges	Add the cost of inland freight, handling and port charges
Non-refundable VAT	Add the portion of non-refundable VAT, on the assumption that the goods, instead of being sold domestically, were to have been exported.

The resulting ascertained normal value for Yonggang in respect of rebar has changed since Investigation 300.

Details of the normal value calculations for Yonggang are at **Review 423 - Confidential Appendices 2 to 4**.

4.7 Dumping margins

In the SEF, for Hunan Valin and Yonggang, the Commission used the single weighted average export price from the original investigation (adjusted for timing) and compared it to a single weighted average normal value calculated from domestic sales of all like goods. For the final report, however, the Commission has instead compared export prices by model to the normal values by model. This method ensures that the product mix captured by the time-adjusted export prices also corresponds to the normal values ascertained in these reviews.

Furthermore, the dumping margin calculations for this final report have also included an amount for the non-refundable VAT on the normal value, which was stated to be included in the calculations for the SEF, but was not.

The Commission has determined dumping margins for Hunan Valin, Shagang and Yonggang under subsection 269TACB(2)(a) by comparing the weighted average

PUBLIC RECORD

export price over the review period with the weighted average of corresponding normal values over that period. The resulting dumping margins are detailed below.

Hunan Valin	Shagang	Yonggang
19.7 per cent	12.3 per cent	6.1 per cent

Details of the dumping margin calculations for the three exporters are at **Review 411 - Confidential Appendix 5**, **Review 412 - Confidential Appendix 5** and **Review 423 - Confidential Appendix 5**.

5 NON-INJURIOUS PRICE

5.1 Introduction

Dumping duties³⁶ may be imposed where the Assistant Minister is satisfied that dumped exports of the goods to Australia have caused or threatened to cause material injury to the Australian industry producing like goods. Under subsection 269TACA(a) of the Act, the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, to the Australian industry by dumped goods.

Pursuant to subsection 8(5BAA) of the *Customs Tariff (Anti-Dumping) Act 1975*, the Assistant Minister is not required to have regard to the desirability of fixing a lesser amount of duty if he is satisfied that either or both of the following apply in relation to the goods the subject of the notice:

- a) the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii);
- b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

5.2 Commission's assessment

The Commission has found that, in accordance with subsection 269TAC(2)(a)(ii), the normal value of rebar exported to Australia from China cannot be ascertained under subsection 269TAC(1) because the situation in the Chinese market is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1). As such, the Commission notes that the Assistant Minister is not required to have regard to the desirability of fixing a lesser rate of duty.

³⁶ In the form of a dumping duty notice under subsection 269TG(1) or (2) of the Act.

6 FINDINGS AND RECOMMENDATIONS

6.1 Findings

The Commissioner has found, in relation to exports of rebar to Australia from China by the applicants, that:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- due to the existence of a 'particular market situation' the Assistant Minister is not required to have regard to the desirability of fixing a lesser rate of duty.

6.2 Recommendations

The Commissioner recommends that the Assistant Minister **declare**:

- in accordance with subsection 269ZDB(1)(a)(iii), with effect from the day following publication of the notice declaring the outcome of the reviews, and for the purposes of the Act and the Dumping Duty Act, the dumping duty notice is taken to have effect in relation to Hunan Valin, Shagang and Yonggang as if different variable factors, as set out in **Confidential Appendix 2**, had been fixed relevant to the determination of duty.

The Commissioner recommends the Assistant Minister **be satisfied that**:

- in accordance with subsection 269TAB(3), sufficient information is not available to enable the export price of rebar exported to Australia from China by Shagang to be ascertained under the subsection 269TAB(1); and
- in accordance with subsection 269TAC(2)(a)(ii), the normal value of rebar exported to Australia from China by Hunan Valin, Shagang and Yonggang cannot be ascertained under subsection 269TAC(1) because the situation in the market of China is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1).

The Commissioner recommends the Assistant Minister **determine**:

- in accordance with subsection 269TAB(2A)(b), that there is insufficient or unreliable information to ascertain the export price for Hunan Valin due to an absence of exports of those goods to Australia by that exporter having regard to previous volumes of exports of those goods to Australia by that exporter, patterns of trade for like goods, and factors affecting patterns of trade for like goods that are not within the control of the exporter;
- in accordance with subsection 269TAB(2A)(b), that there is insufficient or unreliable information to ascertain the export price for Yonggang due to a low volume of exports of those goods to Australia by that exporter having regard to previous volumes of exports of those goods to Australia by that exporter, patterns of trade for like goods, and factors affecting patterns of trade for like goods that are not within the control of the exporter;

PUBLIC RECORD

- in accordance with subsection 269TAB(2B)(a), that the export price for the goods exported to Australia by Hunan Valin and Yonggang be the export price established in accordance with subsection 269TAB(1) for the decision to publish a dumping duty notice under subsection 269TG(2) made by the then Assistant Minister on 12 April 2016, as adjusted in accordance with subsection 269TAB(2G)(a), as set out in **sections 4.6.1 and 4.6.3** of the report, to reflect what the export price would have been had there not been an absence or low volume of exports; and
- in accordance with subsection 269TAC(2)(c), that the normal value of rebar exported from China by Hunan Valin, Shagang and Yonggang is the sum of:
 - the cost of production or manufacture of rebar in China as set out in **Review 411 - Confidential Appendix 2, Review 412 - Confidential Appendix 2 and Review 423 - Confidential Appendix 2**, and
 - on the assumption that the rebar, instead of being exported, had been sold for home consumption in the ordinary course of trade in China, the administrative, selling and general costs associated with the sale and the profit on that sale as set out in **Review 411 - Confidential Appendix 4, Review 412 - Confidential Appendix 4 and Review 423 - Confidential Appendix 4**,

as adjusted in accordance with subsection 269TAC(9), as set out in **sections 4.6.1 to 4.6.3** of the report, to ensure that the normal value of the goods so ascertained is properly comparable to the export price of the goods.

The Commissioner recommends the Assistant Minister **deem**:

- in accordance with subsection 269TAB(2C), exports by Hunan Valin to have occurred for the purposes of applying subsections 269TAB(2A) and 269TAB(2B) to that exporter.

6.3 Proposed form of duty

The current anti-dumping measures are in the form of a combination duty, i.e. a combination of fixed and variable duty.³⁷ As applicants' export price is lower than its normal value, the Commissioner proposes to maintain the combination method for determining any interim dumping duty payable on the applicants' exports of the goods to Australia.

A summary of the variable factors as they apply to each applicant is at **Confidential Appendix 2 - Summary of variable factors**.

³⁷ Per subsection 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

7 LIST OF APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Steel billet benchmark
Confidential Appendix 2	Summary of variable factors
Review 411 - Confidential Appendix 1	Export price - Shagang
Review 411 - Confidential Appendix 2	Cost to make and sell - Shagang
Review 411 - Confidential Appendix 3	Domestic sales and profit - Shagang
Review 411 – Confidential Appendix 4	Normal value - Shagang
Review 411 – Confidential Appendix 5	Dumping Margin - Shagang
Review 412 - Confidential Appendix 1	Export price – Hunan Valin
Review 412 - Confidential Appendix 2	Cost to make and sell - Hunan Valin
Review 412 - Confidential Appendix 3	Domestic sales and profit - Hunan Valin
Review 412 – Confidential Appendix 4	Normal value - Hunan Valin
Review 412 – Confidential Appendix 5	Dumping Margin - Hunan Valin
Review 423 - Confidential Appendix 1	Export price - Yonggang
Review 423 – Confidential Appendix 2	Cost to make and sell - Yonggang
Review 423 - Confidential Appendix 3	Domestic sales and profit - Yonggang
Review 423 - Confidential Appendix 4	Normal Value calculation - Yonggang
Review 423 - Confidential Appendix 5	Dumping margin calculation - Yonggang