



Australian Government
Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

REPORT
NO. 267

REVIEW OF ANTI-DUMPING MEASURES
HOLLOW STRUCTURAL SECTIONS
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA
BY TIANJIN YOUFA STEEL PIPE CO LTD

17 June 2015

CONTENTS

CONTENTS..... 2

ABBREVIATIONS..... 3

1 SUMMARY AND RECOMMENDATIONS 4

1.1 SUMMARY 4

1.2 APPLICABLE LAW 4

1.3 FINDINGS AND CONCLUSIONS 4

1.4 RECOMMENDATION 4

2 BACKGROUND..... 5

2.1 CURRENT ANTI-DUMPING MEASURES 5

2.2 INITIATION OF REVIEW..... 6

2.3 REVIEW PROCESS 7

2.4 STATEMENT OF ESSENTIAL FACTS (SEF 267) 8

2.5 SUBMISSIONS IN RESPONSE TO THE SEF..... 9

3 THE GOODS AND LIKE GOODS..... 10

3.1 FINDING 10

3.2 LEGISLATIVE FRAMEWORK 10

3.3 THE GOODS 10

3.4 TARIFF CLASSIFICATION..... 11

3.5 LIKE GOODS PRODUCED BY THE AUSTRALIAN INDUSTRY 11

3.6 LIKE GOODS PRODUCED AND SOLD IN CHINA BY TIANJIN YOUFA 12

4 VARIABLE FACTORS – DUMPING DUTY NOTICE..... 13

4.1 FINDING 13

4.2 MARKET SITUATION ASSESSMENT..... 13

4.3 RELIABILITY OF DATA SUPPLIED BY TIANJIN YOUFA 13

4.4 EXPORT PRICE 14

4.5 NORMAL VALUE 14

4.6 DUMPING MARGIN..... 15

4.7 NON-INJURIOUS PRICE 15

4.8 SUBMISSIONS IN RESPONSE TO SEF 267 16

5 VARIABLE FACTORS – COUNTERVAILING DUTY NOTICE 18

5.1 FINDINGS..... 18

5.2 PROGRAMS REVIEWED 18

5.3 PROGRAM 20 18

6 EFFECT OF THE REVIEW 20

7 RECOMMENDATION 21

8 APPENDICES AND ATTACHMENTS..... 22

PUBLIC RECORD

ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	Tianjin Youfa Steel Pipe Co Ltd
ATM	Australian Tube Mills Pty Ltd
AUD	Australian dollars
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the goods	Hollow Structural Sections as described in section 3.3
ICD	Interim countervailing duty
IDD	Interim dumping duty
Huludao	Huludao City Steel Pipe Industrial Co., Ltd
Minister	The Minister for Home Affairs
Orrcon	Orrcon Operations Pty Ltd
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science
Qingdao Xiangxing	Qingdao Xiangxing Steel Pipe Co., Ltd
SEF	Statement of Essential Facts
Tianjin Youfa	Tianjin Youfa Steel Pipe Co Ltd group as detailed at section 4.2
USD	United States dollars

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

This review is in response to an application lodged by Tianjin Youfa Steel Pipe Co Ltd (Tianjin Youfa) for the review of anti-dumping measures, in respect of exports of certain hollow structural sections (HSS)¹ from the People's Republic of China (China) to Australia, as those measures affect Tianjin Youfa.

1.2 Applicable law

Division 5 of Part XVB of the *Customs Act 1901* (the Act)² enables affected parties to apply for a review of anti-dumping measures. The division, among other matters:

- sets out the circumstances in which applications for the review of anti-dumping measures can be brought;
- sets out the procedure to be followed by the Commissioner of the Anti-Dumping Commission (Commissioner) in dealing with such applications or requests and preparing reports for the Parliamentary Secretary to the Minister for Industry and Science (Parliamentary Secretary); and
- empowers the Parliamentary Secretary, after consideration of such reports, to leave the measures unaltered or to modify them as appropriate.

After conducting a review of anti-dumping measures, the Commissioner must give the Parliamentary Secretary a report containing recommendations.

1.3 Findings and conclusions

The Commissioner has conducted a review of anti-dumping measures, in respect of exports of certain HSS from China to Australia, as they affect Tianjin Youfa and is satisfied that variable factors relevant to the taking of those measures in relation to Tianjin Youfa have changed.

1.4 Recommendation

The Commissioner recommends to the Parliamentary Secretary that the dumping duty notice and countervailing duty notice have effect in relation to Tianjin Youfa, as if different variable factors had been ascertained.

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

² A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified

2 BACKGROUND

2.1 Current anti-dumping measures

On 19 September 2011, following an assessment of an application for publication of a dumping duty notice and a countervailing duty notice made by OneSteel Australian Tube Mills Pty Ltd (ATM), the Australian Customs and Border Protection Service (ACBPS) initiated investigations into:

- the alleged dumping of certain HSS exported to Australia from China, the Republic of Korea (Korea), Malaysia, the Kingdom of Thailand and Taiwan; and
- the alleged subsidisation of certain HSS exported to Australia from China.

These investigations were collectively named 'Investigation 177'.

Notification of initiation of Investigation 177 was made in *The Australian* newspaper on 19 September 2011, and Australian Customs Dumping Notice (ACDN) 2011/43, providing further details of the investigation, was issued on the same day.

On 7 June 2012, the ACBPS provided its final report (REP 177)³ and recommendations to the then Minister for Home Affairs (Minister).

In that report, in relation to dumping, the ACBPS concluded:

- HSS exported from China to Australia was dumped with margins between 10.1% and 57.1%;
- HSS exported from Korea to Australia was dumped with margins between 3.2% and 8.9%;
- HSS exported from Malaysia to Australia was dumped with margins between 3.0% and 20.0%;
- HSS exported from Taiwan to Australia was dumped with margins between 2.4% and 5.3%;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

In making its findings in respect to dumping, the ACBPS determined there was a market situation⁴ in the domestic HSS market in China during the investigation period which rendered domestic sales of HSS in China unsuitable for use in determining normal values under subsection 269TAC(1) of the Act.

In respect to subsidisation, the ACBPS identified 26 countervailable subsidies that had been received by exporters in China of HSS. Subsidy margins of between 2.2% and 54.8% were determined for exports of the goods from China to Australia by all exporters

³ Refer to [Report to the Minister No. 177 \(REP 177\)](#)

⁴ Subsection 269TAC(2)(a)(ii).

PUBLIC RECORD

except for exports by Huludao City Steel Pipe Industrial Co., Ltd (Huludao) and Qingdao Xiangxing Steel Pipe Co., Ltd (Qingdao Xiangxing).

The Minister accepted the recommendations contained in REP 177, including the reasons for the recommendations, the material findings of fact on which the recommendations were based, and the evidence relied on to support those findings.

The Minister published a dumping duty notice in *The Gazette* and *The Australian* on 3 July 2012 imposing dumping duties on the goods exported to Australia from China, Korea, Malaysia and Taiwan and a countervailing duty notice imposing countervailing duties on the goods exported to Australia from China (excluding Huludao and Qingdao Xiangxing).

The decision by the Minister to accept the recommendations and publish a dumping duty notice and a countervailing duty notice has since been the subject of review by the Trade Measures Review Officer and subsequently, reinvestigation by the ACBPS.

The reinvestigation resulted in the ACBPS recommending to the Minister that the dumping duty notice and countervailing duty notice remain in place with an alteration of the amount of interim dumping duty (IDD) applicable to the exports of one Chinese exporter (Dalian Steelforce Hi-Tech Co Ltd). The Minister accepted this recommendation.

Tianjin Youfa did not export the goods during the investigation period relevant to that investigation and was therefore not named in the notice. Consequently, Tianjin Youfa is subject to the IDD and interim countervailing duty (ICD) applicable to all other exporters of the goods from China.⁵ The current effective rates of combined IDD and ICD in relation to all other exporters of the goods from China for different finishes of HSS are:

- Black 100.8%
- Pre-galvanised 43.9%
- Hot dipped galvanised 100.8%
- Painted 99.5%
- Other 43.9%

2.2 Initiation of review

On 20 August 2014, Tianjin Youfa lodged an application under Division 5 of Part XVB of the Act for a review of the anti-dumping measures that affect its exports of certain HSS from China to Australia. The application claims that certain variable factors relevant to the taking of the measures in relation to Tianjin Youfa only, have changed. The application is supported by one Australian importer of the goods.

Anti-dumping measures taken in respect of certain HSS currently apply to Tianjin Youfa under the category of 'All Other Exporters' of HSS from China. Tianjin Youfa advised it did not export HSS to Australia during the original investigation period but did export between the end of the investigation period and the date of publication of the statement of

⁵ Refer to [Australian Customs Dumping Notice No. 2012/35](#).

PUBLIC RECORD

essential facts (SEF) in relation to that investigation. Therefore, Tianjin Youfa is not deemed to be a new exporter and is therefore not eligible to apply, under Division 6 of Part XVB of the Act for an accelerated review of the dumping duty notice or countervailing duty notice and has applied for a review of measures under Division 5 of Part XVB of the Act.

The application for review is based on a change in variable factors. The variable factors relevant to the review are the normal value, export price, non-injurious price (NIP) and the amount of countervailable subsidy. The application contains a statement in the opinion of Tianjin Youfa that the normal value and export price have changed. This opinion is based on Tianjin Youfa's assessment that the global price of steel manufacturing inputs of iron ore and coking coal decreased and therefore the input cost of hot rolled coil and narrow strip (hot rolled steel) decreased proportionately. The application also refers to a change in the exchange rate of the Australian dollar (AUD) as a reason for a change in variable factors. It is the opinion of the applicant that the effect of these factors will persist.

The Commissioner examined the application and decided not to reject it. Consideration Report No. 267 details the basis for this decision.⁶

On 30 September 2014, the Commissioner initiated a review of anti-dumping measures, in respect of exports of certain HSS from China to Australia, as they affect Tianjin Youfa. The review is limited to examining whether one or more of the variable factors relevant to the taking of those measures in relation to Tianjin Youfa have changed.

Notification of the initiation of the review was made in *The Australian* newspaper on 30 September 2014 and Anti-Dumping Notice (ADN) 2014/93. The review period for the purpose of this review is the period from 1 July 2013 to 30 June 2014.

2.3 Review process

If anti-dumping measures have been taken in respect of goods and an affected party considers it may be appropriate to review those measures because one or more of the variable factors relevant to the taking of the measures have changed, the affected party may request that the Commissioner initiate a review.

Where the measures involve the publication of a dumping duty notice or countervailing duty notice, an application for review must not be made earlier than 12 months after the publication of the notice or the publication of a notice declaring the outcome of the last review notice. The Parliamentary Secretary may however, at any time request that the Commissioner initiate a review.

If an application for a review of anti-dumping measures is received and not rejected, the Commissioner must, within 110 days or such longer period as the Parliamentary Secretary allows, place on the public record an SEF on which he proposes to base recommendations to the Parliamentary Secretary in relation to the review of those measures.

⁶ Refer to [Consideration Report No. 267](#).

PUBLIC RECORD

The Commissioner must, after conducting a review of anti-dumping measures and within 155 days or such longer period as the Parliamentary Secretary may allow, give the Parliamentary Secretary a report setting out recommendations on the review of the measures.

During the review, the Commission sought approval for an extension of time to issue the statement of essential facts in order to accurately assess the subsidy amount pertaining to Tianjin Youfa; and to accurately assess the dumping margin where complex issues required careful attention. The Minister for Industry and Science approved a 45 day extension and subsequent to this, the Parliamentary Secretary approved a further 60 day extension. The statement of essential facts was published on the new due date of 5 May 2015. The final report and recommendations consequently became due by 17 June 2015.

In making recommendations in his report to the Parliamentary Secretary, the Commissioner must have regard to:

- the application for review;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- the SEF;
- any submission made in response to the SEF that is received by the Commissioner within 20 days of it being placed on the public record.

Additionally, the Commissioner may have regard to any other matter he considers to be relevant to the review.

After the Parliamentary Secretary considers the report of the Commissioner along with any other information that the Parliamentary Secretary considers relevant, a notice is to be published declaring that the dumping duty notice and/or countervailing duty notice:

- remain unaltered; or
- be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or
- have effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.

The Parliamentary Secretary must make a declaration within 30 days of receiving the report or, if the Parliamentary Secretary considers there are special circumstances that prevent the declaration being made within that period, such longer period as the Parliamentary Secretary considers appropriate.

2.4 Statement of essential facts (SEF 267)

On 5 May 2015, the Commissioner placed on the public record SEF 267 to inform all interested parties of the essential facts under consideration which the Commissioner proposed to base a recommendation to the Parliamentary Secretary in relation to the review of measures.

2.5 Submissions in response to the SEF

The Commissioner received the following submissions in response to SEF 267:

Interested party	Date received
ATM	25 May 2015
ATM	1 June 2015
Tianjin Youfa	9 June 2015
ATM	9 June 2015

Non-confidential versions of the above submissions are on the public record.

The Commissioner has had regard to these submissions in deciding on the recommendations made to the Parliamentary Secretary in this report. Specific regard is detailed in the relevant sections within this report.

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner considers there is an Australian industry that produces HSS that have characteristics closely resembling those of the goods under consideration, and therefore, HSS manufactured by the Australian industry are considered like goods⁷.

3.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Subsection 269T(2) of the Act specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In accordance with s. 269T(3) of the Act, for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

3.3 The goods

The goods subject to the measures (the goods) are:

certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm.

The following additional information is provided to clarify the goods covered by the measures.

Finishes

All HSS regardless of finish is included in the goods.

Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

Circular hollow sections with other than plain ends (such as threaded, swaged and shouldered) are also included in the application.

⁷ In terms of s. 269T

Standards

HSS is generally produced to either the British Standard BS 1387, the Australian Standard AS 1163 or international equivalent standards (including ASTM International, Japanese Industry Standards and Korean Industrial Standards).

HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals.

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

Excluded goods

The following categories are excluded from the goods:

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);
- precision rectangular or square hollow sections with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes made to Australian Standard 2556.

‘Structural’ sections

For clarification, the goods subject to the measures include all electric resistance welded pipe and tube made of carbon steel meeting the above description of the goods (and exclusions), regardless of whether or not the pipe or tube meets a specific structural standard or is used in structural applications.

3.4 Tariff classification

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

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

The goods exported to Australia from China are subject to a 4% rate of duty.

3.5 Like goods produced by the Australian industry

During the original investigation, the ACBPS found that:

- there was an Australian industry producing like goods;
- a substantial process of manufacture was carried out in Australia in producing the like goods;

PUBLIC RECORD

- the like goods were wholly manufactured in Australia; and
- there was an Australian industry consisting of four Australian companies that produce like goods in Australia.

The Commissioner remains satisfied there is an Australian industry producing like goods.

3.6 Like goods produced and sold in China by Tianjin Youfa

Based on the information provided by Tianjin Youfa, the Commission is satisfied that the HSS it sold on the domestic market in China in the review period possesses similar physical characteristics, has similar uses, and has similar manufacturing processes to the HSS subject to the dumping duty notice and countervailing duty notice.

4 VARIABLE FACTORS – DUMPING DUTY NOTICE

4.1 Finding

The review found that variable factors relevant to the taking of anti-dumping measures in respect to the dumping duty notice in relation to Tianjin Youfa have changed.

4.2 Market situation assessment

As a result of the original investigation, the ACBPS found a situation in the market in China such that sales in that market are not suitable for use in determining normal value under subsection 269TAC(1). This finding was subsequently confirmed following Reinvestigation 203⁸. The Commission notified interested parties at the initiation stage of this review that it would not reassess whether there was a market situation in China (ADN 2014/93).

An assessment of the market situation in China is detailed at Appendix A of REP 177 on the electronic public record. For this review, the Commission has not departed from the approach taken in the original investigation and the calculation of normal value has again been determined under subsection 269TAC(2)(c).

4.3 Reliability of data supplied by Tianjin Youfa

The Commission elected not to conduct an on-site verification of the information and data provided in Tianjin Youfa's response to the exporter questionnaire. Tianjin Youfa has been fully cooperative during the review and has provided detailed financial data in response to its exporter questionnaire.

The Commission has various other means for testing the accuracy, relevance and reliability of data to a satisfactory level. A number of tests have been undertaken on Tianjin Youfa's data for the purpose of this review. Based on these testing methods, the Commission is satisfied as to the accuracy of the data supplied by Tianjin Youfa upon which the findings of this review are based. The key tests of relevance and reliability undertaken by the Commission in relation to the data submitted by Tianjin Youfa are outlined below.

Comparison to data verified in Investigation 177

The Commission has, where possible, compared the data provided by Tianjin Youfa in the review to data provided by exporters of HSS from China and verified by the ACBPS for the purposes of the original investigation; and data currently available to the Commission from other inquiries relating to HSS exported from China. The Commission has ensured the same methodologies have been employed to maintain a consistent approach to ascertaining the variable factors.

⁸ Refer to [REP 203](#)

ACBPS Database

Tianjin Youfa stated it did not export the goods to Australia during the review period. The Commission's analysis of the ACBPS database confirms that Tianjin Youfa did not make any export sales of the goods to Australia during the investigation period.

Independent sources of information

The Commission has made independent inquiries into the movements in price for hot rolled coil, which is used in the production of HSS. The Commission indexed the benchmark price established in Investigation 177 through to the end of the review period utilising several independent and reputable sources of price information. A comparison showed the hot rolled coil price movements from original investigation period to the review period exhibited a significant correlation to the movement in the ascertained normal value.

These analyses supported the relevance and reliability of the Tianjin Youfa data submitted for the purpose of the review.

4.4 Export price

Tianjin Youfa did not export the goods to Australia during the review period. As such, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;
- the price in Australia less prescribed deductions; or
- the price having regard to all the circumstances of the exportation.⁹

The Commission considers it appropriate to determine an export price, for the purpose of this review, under subsection 269TAB(3), having regard to all relevant information. Specifically, the Commission considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value for the purposes of the review. This price is at ex works (EXW) delivery terms.

In comparison to the ascertained export price determined in the original investigation for all other exporters in China and applicable to Tianjin Youfa, based on its product mix of black and HDG HSS, the ascertained export price established for this review has increased in terms of AUD by 12.1%. Noting that the ascertained export price is now at EXW terms rather than the original free on board (FOB) terms, the increase is effectively greater than 12.1%.

4.5 Normal value

For this review, the ascertained normal value has been established in accordance with subsection 269TAC(2)(c) at EXW delivery terms, using Tianjin Youfa's cost of production

⁹ Subsection 269TAB(1)(a)-(c).

whereby cost of hot rolled steel inputs have been replaced with a benchmark cost; amounts determined for administrative, selling and general; costs associated with the sales; the profit associated with those sales;¹⁰ and an adjustment relating to value added tax (VAT).

In comparison to the ascertained normal value determined in the original investigation for all other exporters in China and applicable to Tianjin Youfa, based on its product mix of black and HDG HSS, the ascertained normal value established for this review has decreased in terms of AUD. The ascertained normal value is now at EXW terms rather than the original free on board (FOB) terms.

4.6 Dumping margin

A calculation of dumping margin is not required for the purpose of reviewing variable factors. For this review, as the ascertained export price is to be the same amount as that determined to be the normal value, the dumping margin is zero.

4.7 Non-injurious price

4.7.1 General

Under section 8 of the *Customs Tariff (Anti-Dumping) Act 1975*, the Parliamentary Secretary must have regard to the desirability of ensuring that the amount of dumping duty is not greater than is necessary to prevent injury or a recurrence of the injury. Subsection 269TACA of the Act identifies the NIP of the goods exported to Australia as the minimum price necessary to remove the injury caused by the dumping or subsidisation.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). Deductions from this figure are made for post-exportation costs back to the relevant level of trade applicable to the normal value in the country of export.

4.7.2 Assessment of NIP

During the original investigation, ACBPS determined the USP utilising Australian industry's CTMS for the investigation period plus an amount for profit during the period of January to September 2008. ACBPS chose January to September 2008 as the period to calculate profit because material injury, if any, to the Australian industry was negligible during that period. A separate USP was calculated by finish and the NIP for each finish was then calculated by deducting amounts for post exportation costs. The methodology was not subject to reinvestigation.

For the purpose of this review, a weighted average USP has been determined based on verified ATM CTMS data during the review period plus an amount of profit achieved by

¹⁰ *Customs Regulations 1926*, Regulations 181-181A. These are now sections 44 and 45 of the *Customs (International Obligations) Regulation 2015*.

PUBLIC RECORD

Australian industry in the period of January to September 2008. The NIP has been calculated to EXW delivery terms in China by deducting from the USP amounts for:

- importer profit;
- importer expenses;
- Australian customs duty, port charges, delivery commission, storage and handling;
- overseas freight and insurance; and
- Chinese local transport, port charges and handling costs.

These deductions are based on data provided by verified exporters of the goods in China in the original investigation (expressed as a percentage of USP) and data currently available to the Commission from other inquiries relating to HSS exported from China.

The approach to the calculation of the NIP is consistent with the approach taken in REP 177.

NIP calculations are at **Confidential Appendix 1**.

4.8 Submissions in response to SEF 267

4.8.1 Submission on export price

ATM provided a submission¹¹ in response to SEF 267 stating the following:

'Whilst it is noted by ATM that Tianjin Youfa has not exported the goods the subject of the notices to Australia during the review investigation period, ATM requests the Commission to consider whether Tianjin Youfa has exported HSS that includes boron during the investigation period. Where it is found that Tianjin Youfa has exported HSS incorporating boron, these goods are considered 'like goods' and the export prices are relevant for the purposes of this review inquiry.'

Following this, Tianjin Youfa submitted¹²:

'We would like it stated on the public record that 'YOUFA' did not export any of the GUC during the original investigation period and post that period 'YOUFA' has not exported any of the so called 'alloy' steel pipes currently the subject of anti-circumvention investigations.'

4.8.2 Commission's assessment

The goods subject to the measures as described in section 3 of this report are classified under the relevant tariff classifications also described in section 3 as carbon steel of iron and non-alloy. HSS that include boron are not covered by the goods description or tariff classifications for the existing anti-dumping measures. Anti-circumvention Inquiry No. 291¹³ is currently examining whether any exporters from China, Korea or Malaysia

¹¹ [ATM submission received 25 May 2015](#)

¹² [Tianjin Youfa submission received 9 June 2015](#)

¹³ Refer to [ADC 291](#)

PUBLIC RECORD

have engaged in circumvention activity whereby there is a slight modification of goods exported to Australia, as outlined in subsection 48(2) of the *Customs (International Obligations) Regulation 2015*.

4.8.3 Submission on benchmark of hot rolled steel

In two separate submissions by ATM in response to SEF 267, ATM described its concerns regarding the indexation method used by the Commission to index the benchmark of hot rolled steel inputs. The Commission's approach was to index the benchmark cost from the original investigation based on the change in price of the East Asian hot rolled coil price. ATM's concerns were due to, in its opinion, the volatility of the East Asian index driven by 'spot' prices causing it to not accurately reflect more relevant longer term agreements. ATM also questioned the Commission's assessment of a 26% decline in this index as described in SEF 267.

ATM provided the Commission with its assessment of the reduction in the hot rolled coil price since the original investigation, which referred to price information from a reputable independent source in reference to domestic hot rolled coil prices in Korea and Taiwan. ATM's opinion is that these prices are not subject to the same volatility as the East Asian index and are a more appropriate source to index the benchmark to. ATM requested the Commission re-examine its approach to the indexation of benchmark hot rolled coil costs.

4.8.4 Commission's assessment

In SEF 267, the Commission described the decline of the East Asian import price of hot rolled coil from the original investigation period to the review period as being 26% in terms of US dollars. For further clarification to this, the change of 26% is in reference to the change in price from the last quarter of the original investigation period to the last quarter of the review period. When the Commission compared the average prices of each 12 month period, the change in the averages is 18%, which is consistent with ATM's expectation.

Based on ATM's submission concerning the reasonableness of utilising the East Asian import price index for the purposes of the determining an appropriate benchmark of hot rolled steel for the review period, the Commission has assessed the change in the domestic price of hot rolled coil in Korea and Taiwan as a more appropriate index to utilise in determining an appropriate benchmark for the review period. Factors taken into consideration have been the relatively higher volatility of the East Asian price and the fact that the original benchmark was based on domestic prices which included those countries.

The revised indexation method used in determining an appropriate benchmark is now expressed as a reduction of 15% rather than 18%.

A summary of the calculation of the normal value is at **Confidential Appendix 2**.

5 VARIABLE FACTORS – COUNTERVAILING DUTY NOTICE

5.1 Findings

The countervailable subsidy margin applicable to Tianjin Youfa in the review period has been determined to be 0.1%.

The Commissioner recommends to the Parliamentary Secretary that the countervailing duty notice should apply to HSS exported to Australia from China by Tianjin Youfa with a countervailing duty rate of 0.1%.

5.2 Programs reviewed

The ACBPS found in the original investigation that countervailable subsidies had been received in respect of HSS exported to Australia from China, under 28 subsidy programs. The Commission requested Tianjin Youfa provide data and information regarding all subsidies they received during the review period as part of its response to the exporter questionnaire.

After assessing all relevant available information and the data provided by Tianjin Youfa, the Commission found that countervailable subsidies have been received in respect of HSS produced by Tianjin Youfa under the following subsidy programs:

Program	Countervailable in relation to HSS (Yes/No)
Program 7: Research & Development (R&D) Assistance Grant	Yes
Program 29: Land Use Tax Deduction	Yes
Program 32: Technology Project Assistance	Yes
Program 35: Preferential Tax Policies for High and New Technology Enterprises	Yes

The Commission has therefore determined that during the review period, Tianjin Youfa has received a benefit from a number of financial contributions¹⁴ in respect of the goods. A subsidy margin has been calculated with reference to the data and information provided by Tianjin Youfa in its response to the exporter questionnaire. The subsidy margin is expressed as a percentage of the ascertained export price. The methodology employed to establish the subsidy margin is consistent with the methodology employed in the original investigation.

5.3 Program 20

The original investigation established that a subsidy program existed whereby the Government of China provided hot rolled coil and/or narrow strip (hot rolled steel), as is used in the manufacture of HSS, to manufacturers at less than adequate remuneration. In

¹⁴ Subsections 269TACC(2)(a)-(b)

PUBLIC RECORD

the original investigation, the program was known as 'Program 20'. Program 20 has not been reassessed as part of the review.¹⁵

The Commission has not, for the purpose of this review, reassessed whether or not such a program exists. The Commission has quantified a maximum possible amount of the countervailable subsidy for Program 20 by comparing the actual cost incurred for hot rolled steel inputs to a benchmark amount. The Commission considers that this subsidy should not be countervailed because to do so would be double counting for the same situation. This is because, where the ascertained normal value is equal to the ascertained export price, the maximum amount of the countervailable subsidy is equal to the difference between the actual cost of hot rolled steel and the replacement cost of hot rolled steel used in constructing normal value (when measured on a weighted average basis). This difference has already been incorporated in the constructed normal value.

Therefore, in order to avoid any double count of dumping duty and countervailing duty in this situation, the Commission has ascertained a final subsidy margin less an amount for the subsidy rate applying to Program 20.

The calculation of the subsidy margin is at **Confidential Appendix 3**.

¹⁵[Anti-Dumping Notice No. 2014/93](#)

6 EFFECT OF THE REVIEW

The review found that in relation to anti-dumping measures in respect of exports of certain HSS from China to Australia, as they affect Tianjin Youfa:

- the ascertained export price has increased;
- the ascertained normal value has decreased;
- the NIP has changed;
- the dumping margin is zero; and
- the amount of the countervailable subsidy has decreased.

The review also found that the NIP is greater than the normal value and should therefore not be the operative measure¹⁶ for HSS exported by Tianjin Youfa.

Consequently, the Commissioner recommends to the Parliamentary Secretary that the IDD payable is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to subregulation 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. This is consistent with the method used in the original dumping duty notice. Therefore, the dumping duty payable comprises a fixed component that is now zero, and a variable component that will be payable if the actual export price is below the ascertained export price which is a specified (confidential) amount per tonne. The Commissioner further proposes to recommend to the Parliamentary Secretary that ICD will be payable reflecting the subsidy margin of 0.1%.

A summary of the variable factors is at **Confidential Appendix 4**.

¹⁶ The operative measure is the lesser of the normal value or non-injurious price.

7 RECOMMENDATION

The Commissioner recommends that the Parliamentary Secretary consider this report and sign the attached public notice (**Attachment 1**) to **declare**, under s. 269ZDB(1)(a)(iii), that, for the purposes of the *Act* and the *Customs Tariff (Anti-Dumping) Act 1975*, the dumping duty notice and countervailing duty notice is to be taken to have effect in relation to goods exported by Tianjin Youfa as if different variable factors had been ascertained.

8 APPENDICES AND ATTACHMENTS

Confidential appendix 1	Non injurious price calculation
Confidential appendix 2	Normal value calculation
Confidential appendix 3	Subsidy margin calculation
Confidential appendix 4	Summary of variable factors
Attachment 1	Public notice under s. 269ZDB