



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

**Anti-Dumping  
Commission**

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***CUSTOMS ACT 1901 - PART XVB***

**STATEMENT OF ESSENTIAL FACTS**

**NO. 467**

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO  
STEEL REINFORCING BAR**

**EXPORTED TO AUSTRALIA FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

**October 2018**

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**ABBREVIATIONS**

<b>Abbreviation</b>	<b>Full title</b>
the Act	<i>Customs Act 1901</i>
ABF	Australian Border Force
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
ADRP Report No.84	ADRP report published on 5 October 2018 in relation to ADRP Review No. 2018/84 - steel reinforcing bar exported from China
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
CON 467	<i>Consideration Report No. 467</i>
CTMS	cost to make and sell
current review period	1 April 2017 to 31 March 2018
EPR	electronic public record
FOB	free on board
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
Liberty OneSteel	Liberty OneSteel (Newcastle) Pty Ltd
the Minister	the Minister for Industry, Science and Technology
NIP	non-injurious price
original investigation period	1 July 2014 to 30 June 2015
Platts	S&P Global Platts
rebar	steel reinforcing bar or 'the goods'
Review 411	Review of anti-dumping measures applying to rebar exported from China by Jiangsu Shagang Group Co., Ltd

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Review 412	Review of anti-dumping measures applying to rebar exported from China by Hunan Valin Xiangtan Iron & Steel Co., Ltd
Review 423	Review of anti-dumping measures applying to rebar exported from China by Jiangsu Yonggang Group Co., Ltd
REP 300	Anti-Dumping Commission Report No. 300
REP 411/412/423	Anti-Dumping Commission Report No. 411, 412 and 423
SEF	statement of essential facts
Shagang	Jiangsu Shagang Group Co., Ltd.
USP	unsuppressed selling price
Yonggang	Jiangsu Yonggang Group Co., Ltd.
Zenith	Zenith Steel Group Co.,Ltd.

## 1 SUMMARY

### 1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister) in relation to a review of the anti-dumping measures applying to certain steel reinforcing bar (rebar or the goods)<sup>1</sup> exported to Australia from the People's Republic of China (China).

The review is in response to an application lodged by Liberty OneSteel (Newcastle) Pty Ltd (Liberty OneSteel) for a review of anti-dumping measures applying to rebar exported to Australia from China.

### 1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)<sup>2</sup> 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.<sup>3</sup>

The Commissioner must, within 110 days after the publication of the notice or such longer period as allowed, place on the public record a SEF on which the Commissioner proposes to base his recommendation to the Minister in relation to the review of anti-dumping measures.<sup>4</sup>

### 1.3 Preliminary Findings

The Commissioner finds, in relation to exports of rebar to Australia from China during the period 1 April 2017 to 31 March 2018 (the current review period), that:

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

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<sup>1</sup> Refer to section 3.1 of this report for a full description of the goods.

<sup>2</sup> All legislative references in this SEF are to the *Customs Act 1901*, unless otherwise specified.

<sup>3</sup> Subsection 269ZC(4).

<sup>4</sup> Subsection 269ZD(1).

## **1.4 Proposed recommendations**

The Commissioner proposes to recommend to the Minister that the notice in respect of the goods have effect, as if different variable factors had been ascertained, in relation to all exporters from China generally.

## **2 BACKGROUND**

### **2.1 Application and initiation**

On 8 March 2018, an application was lodged by Liberty OneSteel requesting a review of the anti-dumping measures as they apply to exports of rebar to Australia from China.

Liberty OneSteel claimed that certain variable factors relevant to the taking of the anti-dumping measures in relation to rebar exported to Australia from China had changed (within the period 1 January 2017 to 31 December 2017).

The Commission considered the application in accordance with sections 269ZB and 269ZC and was satisfied, on the basis of the information provided in the application and other relevant information, that:

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

On 3 April 2018, the Commissioner gave public notice in Anti-Dumping Notice (ADN) No. 2018/55 of his decision to initiate a review of anti-dumping measures with respect to rebar exported to Australia from China.<sup>5</sup> The background relating to the initiation of this review is contained in Consideration Report No. 467 (CON 467).<sup>6</sup>

The current review period was set as 1 April 2017 to 31 March 2018.

#### **2.1.1 Previous investigations**

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](http://www.adcommission.gov.au). The matters relevant to these reviews applications are summarised below.

1 July 2015	The Commission initiated Anti-Dumping Investigation No 300 (Investigation 300 or original investigation) into the alleged dumping of rebar exported to Australia from China following an application by OneSteel Manufacturing Pty Ltd.
16 April 2016	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 from China. Anti-Dumping Commission Report No. 300 (REP 300) refers. The dumping margin for Hunan Valin Xiangtan Iron & Steel Co., Ltd (Hunan Valin) was 15.2% and the dumping margin for Jiangsu Yonggang Group Co., Ltd (Yonggang) was

<sup>5</sup> Document 003, EPR 467.

<sup>6</sup> Document 002, EPR 467.

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	11.7%. The dumping margin for uncooperative and all other exporters was 30.0%
12 December 2016	Following a review of the then Assistant Minister's decision by the Anti-Dumping Review Panel (ADRP), 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 of 12.3% for Hunan Valin and 11.5% for Yonggang.
19 May 2017	The Commission initiated single exporter reviews in relation to exports of the goods from China to Australia made by Jiangsu Shagang Group Co., Ltd (Shagang) (Review No. 411) and Hunan Valin (Review No. 412).
29 June 2017	The Commission initiated single exporter reviews in relation to exports of the goods from China to Australia made by Zenith Steel Group Co.,Ltd (Zenith) and Yonggang (Review No. 423). On 21 July 2017, Zenith withdrew its application for a review of measures.
20 April 2018	The then Assistant Minister amended the dumping duty notice applying to rebar exported to Australia from China by Hunan Valin, Shagang and Yonggang respectively resulting in dumping margins of 19.7% for Hunan Valin, 12.3% for Shagang and 6.1% for Yonggang. Anti-Dumping Commission Report 411, 412 and 423 (REP 411/412/413) refers. <sup>7</sup>
2 October 2018	Following a review of the then Assistant Minister's decision by the ADRP, the Minister revoked the previous decision and substituted a new decision in the same terms except with different export prices for Hunan Valin, Shagang and Yonggang resulting in dumping margins of 11.8%, 3.6% and -3.3% respectively. ADRP Report No.84 refers. <sup>8</sup>

## 2.2 The current measures

The current anti-dumping measures applying to all exporters of rebar from China are combination measures i.e. a combination of fixed and variable duty.<sup>9</sup>

## 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 of those goods or exporters of those goods generally. Accordingly, the affected party may apply for,<sup>10</sup> or the Minister may request that the Commissioner conduct,<sup>11</sup> a review of those anti-dumping measures if one or more of

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<sup>7</sup> ADN 2018/49, EPR 411,412,423.

<sup>8</sup> Available on the ADRP website at <https://www.adreviewpanel.gov.au>

<sup>9</sup> Per subsection 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>8</sup> Subsection 269ZA(1).

<sup>9</sup> Subsection 269ZA(3).



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the variable factors relevant to the taking of those measures has changed or the anti-dumping measures are no longer warranted.

The 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.<sup>12</sup>

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 allowed, the Commissioner must place on the public record a SEF on which he proposes to base recommendations to the Minister concerning the review of the anti-dumping measures.<sup>13</sup> The Commissioner has up to 155 days, or such longer time as allowed, to conduct a review and report to the Minister on the review of the anti-dumping measures.<sup>14</sup>

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

- the ascertained export price;
- the ascertained normal value; and
- the non-injurious price (NIP).

In making recommendations in his final report to the Minister, the Commissioner must have regard to:<sup>15</sup>

- the application for review of the anti-dumping measures;
- 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; and
- 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.

The Commissioner may also have regard to any other matter the Commissioner considered to be relevant to the review.<sup>16</sup>

In his final report the Commissioner must make a recommendation to the Minister that the notice:<sup>17</sup>

- remain unaltered; or

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<sup>12</sup> Subsection 269ZA(2)(a).

<sup>13</sup> Subsection 269ZD(1).

<sup>14</sup> Subsection 269ZDA(1).

<sup>15</sup> Subsection 269ZDA(3)(a).

<sup>16</sup> Subsection 269ZDA(3)(b).

<sup>17</sup> Subsection 269ZDA(1)(a).

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

The Minister must then make a declaration within 30 days of receiving the report or, if the Minister considers there are special circumstances that prevent the declaration being made within that period, such longer period as the Minister considers appropriate<sup>18</sup> that the notice:<sup>19</sup>

- remain 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 Minister must give notice of the decision.<sup>20</sup>

### 2.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his recommendations to the Minister. The SEF represents an important stage in the review as it informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner. The final report will recommend whether or not the notice should be varied, and the extent of any interim duties that are, or should be, payable.

Interested parties are invited to lodge written submissions in response to this SEF no later than the close of business on 11 November 2018. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister<sup>21</sup>.

The Commissioner must report to the Assistant Minister on or before 4 December 2018.

Submissions should preferably be emailed to [investigations2@adcommission.gov.au](mailto:investigations2@adcommission.gov.au).

Alternatively, submissions may be posted to:

The Director – Investigations 2  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for

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<sup>18</sup> Subsection 269ZDB(1A).

<sup>19</sup> Subsection 269ZDB(1)(a).

<sup>20</sup> Subsection 269ZDB(1).

<sup>21</sup> Subsection 269ZDA(4).

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making submissions is available on the Commission website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's verification reports and other publicly available documents. The public record can be viewed [online](#).

Documents on the public record should be read in conjunction with this SEF.

### 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<sup>22</sup> 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 the original investigation, the Commission found that the goods have been imported under the following additional tariff subheadings:<sup>23</sup>

- 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.

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<sup>22</sup> Document No 02, EPR 300.

<sup>23</sup> ADN2015/139 refers. See Document No. 35, EPR 300.

## 4 EXPORT PRICE AND NORMAL VALUE

### 4.1 Findings

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

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

### 4.2 Uncooperative dumping margins

On initiation of the review, the Commissioner published a notice under subsection 269ZC(4) being ADN 2018/55, and in accordance with subsection 269ZC(7), the notice invited interested parties to lodge with the Commissioner within 37 days after publication of the notice, submissions concerning the review. Exporter and importer questionnaires were published on the Commission's website.

The Commission undertook a search of the Australian Border Force (ABF) import database in order to identify exporters of rebar from China. A small volume of rebar was exported during the current review period (approximately 3000 metric tonnes in total), with one exporter accounting for approximately 91 percent of this volume. Exporters who had applied for a review of measures in Reviews 411, 412 and 423, including the exporter who had accounted for the largest volume of rebar exported from China during the current review period, were advised of the initiation of this review. The Government of China (GOC) was also advised of the initiation of this review.

The Commission received no submissions to the initiation of this review from any exporters of rebar from China to Australia. The Commissioner is satisfied that all exporters of rebar from China to Australia did not provide the Commissioner with the information relevant to this review within a reasonable period of time. The Commissioner therefore considers all exporters of rebar from China as uncooperative exporters as defined by subsection 269T(1).

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. Subsection 269TACAB(1)(d) specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3). Subsection 269TACAB(1)(e) specifies that normal values are to be calculated under subsection 269TAC(6).

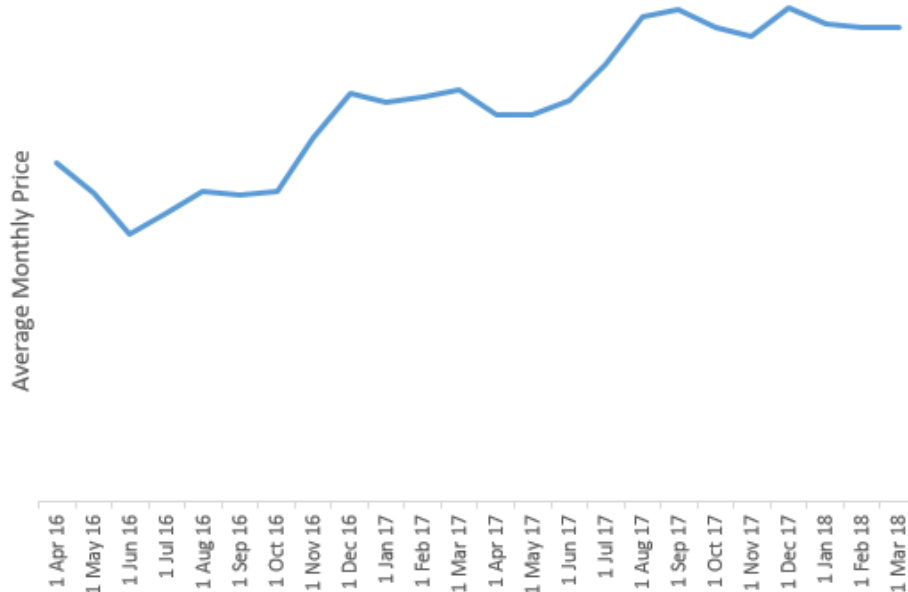
#### 4.2.1 Export Price

The Commissioner has determined an export price under subsection 269TAB(3) after having regard to all relevant information.

Specifically, the Commissioner considers that the best available information to determine an export price for uncooperative exporters of rebar from China in the current review period is the ascertained export prices as ascertained by the Minister on 2 October 2018 in relation to Reviews 411, 412 and 423 following ADRP Report No.84.

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The Commission's analysis of Free on Board (FOB) export prices for rebar exported from China as published by S&P Global Platts (Platts) indicates that the average price of rebar exported from China for the current review period 1 April 2017 to 31 March 2018 is 32.3 percent higher than it was during the review period for Reviews 411, 412 and 423 i.e. 1 April 2016 to 31 March 2017. The movement in FOB export prices for rebar exported from China during the period 1 April 2016 to 31 March 2018 is depicted in Figure 1 below.



**Figure 1: Rebar FOB export prices (RMB/t) - China**

The Commission has therefore applied a timing adjustment by increasing the weighted average ascertained export prices determined by the Minister on 2 October 2018 (following AD RP Report No.84) by 32.3 percent to reflect the higher Chinese export prices for rebar during the current review period. Details of the export price calculations are at **Confidential Appendix 1**.

### 4.2.2 Normal Values

The Commissioner has determined a normal value under subsection 269TAC(6) after having regard to all relevant information.

Specifically, the Commissioner considers that the best available information to determine a normal value for uncooperative exporters of rebar from China is the normal values established by Reviews 411, 412 and 423, minus any favourable adjustments that were made at the time.

**4.2.2.1 '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 exists. Accordingly, normal values for cooperating exporters were constructed pursuant to subsection 269TAC(2)(c).

In Reviews 411,412 and 423 the Commissioner found that a particular market situation for rebar exists, and that the normal values for the applicants could not be ascertained under subsection 269TAC(1).

After the Commission initiated the current review, a questionnaire was sent to the GOC to ascertain whether the market situation found in Investigation 300 and Review 411,412 and 423 had changed. The GOC, however, did not provide a response to the questionnaire.

The Commissioner considers that since the final report for Reviews 411,412 and 423 was published on 20 April 2018, it is unlikely the market situation found then has changed significantly. In the absence of any information to indicate that the particular market situation found in Reviews 411,412 and 423 has changed, the Commissioner considers that a particular market situation for rebar existed in China during the current review period, and that the normal values for the Chinese exporters of rebar cannot be ascertained under subsection 269TAC(1).

**4.2.2.2 Timing adjustment**

The Commissioner considers that a timing adjustment is required to the normal values determined in Reviews 411,412 and 423 to reflect the Chinese domestic prices for rebar during the current review period.

In Investigation 300, the Commission took the view that the Latin American steel billet export prices at FOB level that is published by Platts, formed an independent and reliable basis for competitive market costs.<sup>24</sup>

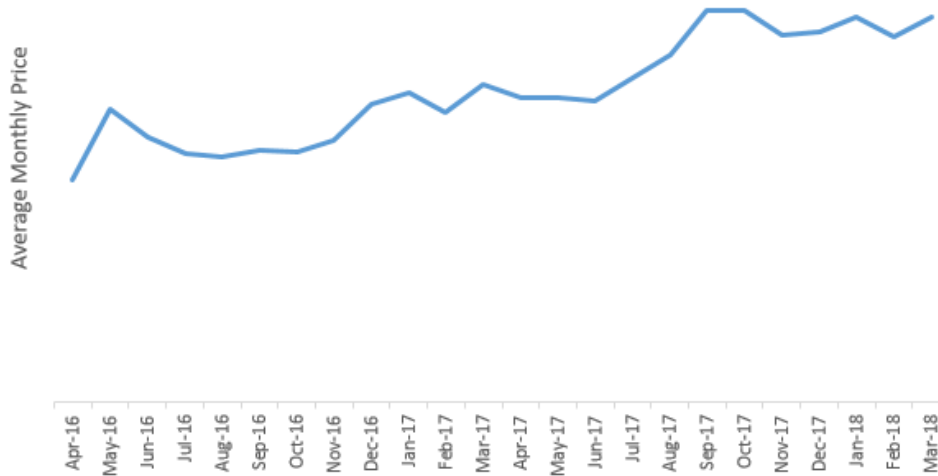
As the Commissioner has determined that Chinese domestic prices during the current review period are affected by a 'particular market situation', the Commission has used FOB Latin American export prices of billet during the review period to determine a timing adjustment.

The Commission's analysis of Latin American FOB export prices for billet published by Platts indicates that the average billet price for the current review period 1 April 2017 to 31 March 2018 is 30.3 percent higher than it was during the review period for Reviews 411,412 and 423 i.e. 1 April 2016 to 31 March 2017. The movement in Latin American FOB export prices for billet during the period 1 April 2016 and 31 March 2018 is depicted below at Figure 2.

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<sup>24</sup> Section 5.9, REP 300, Document 63, EPR 300.

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**Figure 2: Billet prices – Latin American export FOB (RMB/t)**

Accordingly, the Commission has adjusted the normal values determined during Reviews 411, 412 and 423 by increasing those values by 30.3 percent to reflect the higher billet prices during the current review period. Details of the normal value calculations are at **Confidential Appendix 1**.

### 4.2.3 Dumping Margins

The Commissioner has determined a dumping margin for all exporters of rebar from China to Australia by comparing the adjusted highest normal value established by Reviews 411, 412 and 423 with the adjusted lowest ascertained export price established by Reviews 411, 412 and 423. The resultant dumping margin is **22.7%**. Details of the dumping margin calculation are at **Confidential Appendix 1**.



## 5 NON-INJURIOUS PRICE

### 5.1 Introduction

Dumping duties<sup>25</sup> 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), 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

As discussed at paragraph 4.2.2.1 of this report, the Commission has found that, because of the operation of 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 Minister is not required to have regard to the desirability of fixing a lesser rate of duty.

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<sup>25</sup> In the form of a dumping duty notice under subsection 269TG(1) or (2) of the Act.

## 6 FINDINGS AND PROPOSED RECOMMENDATIONS

### 6.1 Findings

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

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

### 6.2 Proposed Recommendations

The Commissioner proposes to recommend to the Minister that the notices in respect of exports of rebar to Australia from China have effect as if different variable factors had been ascertained.

### 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. The Commission considers that the combination duty method continues to be the most appropriate form of duty in the current circumstances.

A summary of the variable factors as they apply to all exporters from China is at **Confidential Appendix 2 – Summary of variable factors.**

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**APPENDICES**

<b>Confidential Appendix 1</b>	Uncooperative rate – Analysis and export price, normal value and dumping margin calculations
<b>Confidential Appendix 2</b>	Summary of variable factors