



**Australian Government**  
**Department of Industry, Science,  
Energy and Resources**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

**STATEMENT OF ESSENTIAL FACTS  
NO. 528**

**REVIEW OF ANTI-DUMPING MEASURES  
APPLYING TO HOT ROLLED COIL STEEL  
EXPORTED TO AUSTRALIA FROM TAIWAN**

**6 July 2020**

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## PUBLIC RECORD

### ABBREVIATIONS

ABF	Australian Border Force
ACBPS	the Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
AEP	ascertained export price
ANV	ascertained normal value
the Minister	the Minister for Industry, Science and Technology
BlueScope	BlueScope Steel Limited
Chung Hung	Chung Hung Steel Corporation
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 528	<i>Consideration Report No. 528</i>
CSC	China Steel Corporation
CSGT	China Steel Global Trading
CTM	cost to make
CTMS	cost to make and sell
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
DSC	Dragon Steel Corporation
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
the explanatory memorandum	the explanatory memorandum to the <i>Customs Amendment (Anti-Dumping Measures) Bill 2017</i>
FOB	Free on Board
the goods	the goods to which the dumping duty notice applies
the Guidelines	<i>Guidelines on the Application of Forms of Dumping Duty</i>
HRC	hot rolled coil
IDD	interim dumping duty
MCC	model control code
mm	millimetres
NIP	non-injurious price
OCOT	ordinary course of trade
PO	pickled and oiled
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 188	<i>International Trade Remedies Branch Report No. 188</i>
REP 400	<i>Anti-Dumping Commission Report No. 400</i>
REP 454	<i>Anti-Dumping Commission Report No. 454</i>
REQ	response to the exporter questionnaire

## **PUBLIC RECORD**

review period	1 October 2018 to 30 September 2019
SEF	statement of essential facts
SG&A	selling, general and administrative
Shang Chen	Shang Chen Steel Co. Ltd
USP	unsuppressed selling price

## **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 (in the form of a dumping duty notice) applying to certain hot rolled coil steel (HRC, or the goods) exported to Australia from Taiwan.

This review of measures is in response to an application from BlueScope Steel Limited (BlueScope). BlueScope claims that the prevailing price for HRC increased materially in 2018, and therefore all of the variable factors relevant to the taking of the measures have changed. In this case, the relevant variable factors are the export price, normal value and non-injurious price (NIP).

### **1.2 Legislative background**

Division 5 of Part XVB of the *Customs Act 1901* (the Act)<sup>1</sup> sets out among other things, the procedures to be followed by the Commissioner in dealing with an application for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject the application, he is required to publish a notice indicating it is proposed to review the measures covered by the application.<sup>2</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 statement of the essential facts (this SEF) on which the Commissioner proposes to base his recommendation to the Minister relating to the review of measures.<sup>3</sup>

### **1.3 Preliminary findings**

The Commissioner is satisfied that all variable factors relevant to the taking of the anti-dumping measures have changed for all exporters of the goods from Taiwan during the review period (1 October 2018 to 30 September 2019), such that:

- the ascertained export price (AEP) has changed;
- the ascertained normal value (ANV) has changed; and
- the NIP has changed.

### **1.4 Proposed recommendation**

The Commissioner proposes to recommend to the Minister that the dumping duty notice have effect in relation to all exporters from Taiwan as if different variable factors had been ascertained.

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<sup>1</sup> All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

<sup>2</sup> Section 269ZC(4).

<sup>3</sup> Section 269ZD(1).

## **1.5 Responding to this SEF**

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

It is important to note the SEF may not represent the final views of the Commissioner. The final report will recommend whether the dumping duty 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 **26 July 2020**.<sup>4</sup> 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>5</sup>

Submissions should preferably be emailed to [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au). Alternatively, submissions may be posted to:

The Director – Investigations 1  
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 making submissions is available on the Anti-Dumping Commission (Commission) website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

The electronic public record (EPR) contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports, and other publicly available documents. The EPR can be viewed online at [www.adcommission.gov.au](http://www.adcommission.gov.au). Documents on the EPR for this review (EPR 528) should be read in conjunction with this SEF.<sup>6</sup>

## **1.6 Final report**

The Commissioner's final report and recommendations must be provided to the Minister by **18 August 2018** or within such longer period as may be allowed.<sup>7</sup>

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<sup>4</sup> As this day is a Sunday, the due date becomes the next working day, 27 July 2020.

<sup>5</sup> Subsection 269ZDA(4).

<sup>6</sup> EPR 528 refers.

<sup>7</sup> Subsection 269ZDA(1).

## 2 BACKGROUND

### 2.1 Application and initiation

On 25 September 2019, BlueScope lodged an application for a review of the anti-dumping measures applying to HRC exported to Australia from Taiwan.

Bluescope claimed in its application that prices for HRC have had a sustained increase due to an upward trend in the cost of raw material inputs such as iron ore and coking coal. Since the conclusion of the last review (examined an *Anti-Dumping Commission Report No. 454* (REP 454)), the result of these cost increases has resulted in increased domestic HRC prices in Taiwan (increasing the normal value) as well as an increase in the export price of HRC exported to Australia from Taiwan. Whilst Bluescope did not make any detailed claims in its application regarding any change to the NIP, the Commission found in *Consideration Report No. 528* (CON 528) that it was likely the NIP had also changed since the conclusion of REP 454.

On 18 October 2019, following consideration of the application, the Commissioner published a notice announcing the initiation of the review.<sup>8</sup> Accordingly, this review of measures examines all the variable factors relevant to the taking of the anti-dumping measures applying to HRC exported to Australia from Taiwan.

### 2.2 Previous cases

The original measures were imposed following the investigation reported in *International Trade Remedies Branch Report No. 188* (REP 188).<sup>9</sup> The previous cases which are relevant to the goods and the present application are summarised below, with full details found on the relevant EPR on the Commission website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Case type and report	ADN No.	Date	Country of export	Findings
<b>Investigation</b> REP 188	2012/66	20 December 2012	Japan, Korea, Malaysia and Taiwan	Dumping duties imposed.
<b>Reinvestigation</b> <i>Anti-Dumping Commission Report No. 209</i>	2013/49	17 July 2013	Japan, Korea, Malaysia and Taiwan	Lesser duty applicable to Japanese exports of pickled and oiled (PO) HRC only. Variable dumping margin for PO HRC from Japan set to 0 per cent.
<b>Continuation</b> <i>Anti-Dumping Commission Report No. 400</i> (REP 400)	2017/166	16 December 2017	Japan, Korea, Malaysia and Taiwan	Dumping measures ceased in relation to the goods exported from Japan, Korea and Malaysia. Floor price duty method applicable to exports from Taiwan.
<b>Review</b> REP 454	2018/126	18 September 2018	Taiwan	The AEP, ANV and NIP was changed for all exporters from Taiwan.

<sup>8</sup> Details of the initiation of the review is available in Anti-Dumping Notice (ADN) No. [2019/128](#).

<sup>9</sup> ADN No. [2012/66](#) refers.

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**Table 1: Summary of key cases relating to HRC**

### 2.3 The current measures

The goods exported from Taiwan are currently subject to the floor price duty method.

Exporter	Effective rate of duty	Duty Method
China Steel Corporation	0%	The lower of ANV and NIP
Chung Hung Steel Corporation	0%	The lower of ANV and NIP
Shang Chen Steel Co., Ltd	0%	The lower of ANV and NIP
All other exporters	0%	The lower of ANV and NIP

**Table 2: Current measures for HRC exported from Taiwan**

### 2.4 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally.<sup>10</sup> Accordingly, the affected party may apply for, or the Minister may request the Commissioner conduct, a review of those measures if one or more of the variable factors has changed.<sup>11</sup>

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 dumping duty notice or countervailing duty notice or the notice(s), declaring the outcome of the last review of the dumping or countervailing duty notice.<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 the Minister may allow, 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 in this review are a reference to:

- the AEP;
- the ANV; and
- the NIP.

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<sup>10</sup> Subsections 269ZA(1)(a), (b).

<sup>11</sup> Subsection 269ZA(1)(b).

<sup>12</sup> Subsection 269ZA(2)(a). The application lodged by BlueScope sought the first review of the measures since the publication of the notice in 2012, although the variable factors were altered as a result of REP 400.

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

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



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In making recommendations in his final report to the Minister, the Commissioner must have regard to:

- 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;
- this SEF; and
- any submission made in response to this SEF that is received by the Commissioner within 20 days of it being placed on the public record.<sup>15</sup>

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

At the conclusion of the review, in respect of the dumping duty notice, the Commissioner must provide a final report making a recommendation to the Minister that the dumping duty notice:

- remain unaltered; or
- has effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.<sup>17</sup>

Following the Minister's decision, the Minister must give notice of the decision.<sup>18</sup>

The Commissioner has granted two extensions of time for the completion of this SEF and the final report.<sup>19</sup> The first extension was granted on 23 January 2020, and a second extension was granted on 4 May 2020.<sup>20</sup> As a result, this SEF is due to be placed on the public record by no later than **4 July 2020**.<sup>21</sup>

### 2.4.1 Australian industry

BlueScope is the sole Australian manufacturer of the goods for sale in the domestic market. Based on a recent verification visit to BlueScope on September 2019,<sup>22</sup> the Commission is satisfied with the accuracy and relevance of the information BlueScope has provided in this review.

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

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

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

<sup>18</sup> Section 269ZDB(1).

<sup>19</sup> On 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to [ADN No. 2017/10](#) for further information.

<sup>20</sup> ADN Nos. [2020/004](#) and [2020/046](#) refer.

<sup>21</sup> As this day is a Saturday, the due date becomes the next working day, 6 July 2020.

<sup>22</sup> EPR 521, document no. [17](#) and EPR 522, document no. [9](#) refer.

## 2.4.2 Importers

The Commission identified several importers in the Australian Border Force (ABF) import database that imported the goods from Taiwan during the review period. The Commission forwarded questionnaires to the major importers and received two completed importer questionnaires. These respondents accounted for approximately 97 per cent (by volume) of all goods imported from Taiwan during the review period.

Based on the importer responses, the Commission conducted verification with one of the major importers.<sup>23</sup> The Commission also compared the importer questionnaires of all cooperative importers to those previously submitted and compared the responses to records kept in the ABF database. The Commission is satisfied that the data provided is relevant, accurate and reliable.

## 2.4.3 Exporters

The Commission identified several suppliers of HRC from Taiwan that were either in large volumes during the review period (identified via the ABF import database), or which had been identified as high volume exporters in previous cases. The Commission provided these suppliers / exporters with an exporter questionnaire. The relevant exporter questionnaires and associated spreadsheets were also placed on the Commission's website for completion by other exporters who were not contacted directly.

The identified suppliers accounted for approximately 98 per cent of the total shipments (by volume) of the goods reported in the ABF import database from Taiwan during the review period. The following table details the exporters that provided a response to the exporter questionnaire (REQ), and the type of verification which was undertaken for these exporters.

Exporter	Status	Verification activity	EPR document no.
China Steel Corporation	Cooperative	On-site	14
Shang Chen Steel Co., Ltd	Cooperative	Desktop	15
Chung Hung Steel Corporation	Cooperative	Desktop	16

**Table 3 – Exporter verifications**

Non-confidential versions of the REQ and the verification reports for these exporters are available on the Commission website. Chapter 4 sets out the verification activities and ascertainment of the variable factors relating to these exporters.

## 2.5 Submissions

The following submissions have been received from interested parties:

Interested Party	Date	EPR document no.
BlueScope	15 November 2019	6

**Table 4 - Submissions received<sup>24</sup>**

The matters raised in submissions have been addressed in relevant sections of this SEF.

<sup>23</sup> EPR 528, document [09](#) refers.

<sup>24</sup> All submissions are available on the Commission website.

### **3 THE GOODS AND LIKE GOODS**

#### **3.1 The goods subject to the anti-dumping measures**

The goods subject to measures are:

Hot rolled coil (including in sheet form), a flat rolled product of iron or non-alloy steel, not clad, plated or coated (other than oil coated).

Goods excluded from this application are hot rolled products that have patterns in relief (known as checker plate) and plate products.

There are several relevant international standards for HRC covering the range of products based on grade designations, including the recommended or guaranteed properties of each of these product grades. The relevant Australian Standard that applies is AS/NZS 1594.

Hot rolled sheet 4.75 millimetres (mm) thick or more is considered to be plate, and is not covered by the notice. Hot rolled sheet below 4.75 mm thick is included within the goods description.

##### **3.1.1 Tariff classification**

The goods may be classified in Schedule 3 to the *Customs Tariff Act 1995* as follows:

Tariff Subheading	Statistical Code	Description
7208	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 mm OR MORE, HOT-ROLLED, NOT CLAD, PLATED OR COATED:	
7208.2	- Other, in coils, not further worked than hot-rolled, pickled:	
7208.25.00	32	-- Of a thickness of 4.75 mm or more
7208.26.00	33	-- Of a thickness of 3 mm or more but less than 4.75 mm
7208.27.00	34	-- Of a thickness of less than 3 mm
7208.3	- Other, in coils, not further worked than hot-rolled:	
7208.36.00	35	-- Of a thickness exceeding 10 mm
7208.37.00	36	-- Of a thickness of 4.75 mm or more but not exceeding 10 mm
7208.38.00	37	-- Of a thickness of 3 mm or more but less than 4.75 mm
7208.39.00	38	-- Of a thickness of less than 3 mm
7208.5	- Other, not in coils, not further worked than hot-rolled:	
7208.53.00	42	-- Of a thickness of 3 mm or more but less than 4.75 mm
7208.54.00	43	-- Of a thickness of less than 3 mm
7208.90.00	30	- Other
7211	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF LESS THAN 600 mm, NOT CLAD, PLATED OR COATED:	
7211.1	- Not further worked than hot-rolled:	
7211.14.00	40	-- Other, of a thickness of 4.75 mm or more
7211.19.00	41	-- Other

**Table 5: General tariff classification for the goods**

### 3.2 Model control codes

On 9 August 2018, the Commission advised in ADN No. 2018/128 that a model control code (MCC) structure would be implemented in new investigations, reviews of measures generally and continuation inquiries for cases initiated after this date. As noted in that ADN, in developing the MCC structure the Commission will have regard to differences in physical characteristics that give rise to distinguishable and material differences in price.

The Commission proposed an MCC structure in CON 528 which had regard to information provided by BlueScope with its application and verification undertaken in the context of REP 454.<sup>25</sup> Subsequent to that advice, the Commission advised interested parties via a file note that a fourth identifier for category “Thickness (BMT)” may be applicable, and that “T4” may be used to identify hot rolled coils with a thickness  $\geq 4.75$  mm.<sup>26</sup>

Interested parties were encouraged to make submissions regarding the appropriateness of the proposed MCC structure. No submissions were received. The Commission therefore applied the following MCC structure to the goods in this review.

Category	Sub-category	Identifier	Sales Data	Cost data	Key category
Quality	Prime	P	Mandatory	Not applicable	Yes
	Non-Prime	N			
Form	Coil	C	Mandatory	Mandatory	Yes
	Sheet	S			
Surface condition	As rolled	A	Mandatory	Mandatory	Yes
	Pickled (with or without oil)	PI			
Standard / Grade	HA1(S) / G250 / HA250 / SPHC / SS400 (AS1594 / JIS G3131 / JIS G3101)	1	Mandatory	Mandatory	Yes
	G300 / HA300 (AS1594)	2			
	G350 / HA350 / SS490 (AS1594 / JIS G 3106)	3			
	HW350 / SMA490 / 'Corten' (AS 1594 / JIS G 3114 )	4			
	Other	5			
Thickness (BMT)	< 1.6 mm	T1	Mandatory	Mandatory	Yes
	$\geq 1.6$ mm to < 2.0 mm	T2			
	$\geq 2.0$ mm to < 4.75 mm	T3			
	$\geq 4.75$ mm (only if Form is “Coil”)	T4			
Width	$\leq 1000$ mm	W1	Mandatory	Mandatory	Yes
	>1000 mm	W2			

**Table 6: MCC structure for HRC**

<sup>25</sup> EPR 528, document [4](#) refer and EPR 454, document [10](#) refer, respectively.

<sup>26</sup> EPR 528, document [5](#) refers.

### **3.3 Like goods**

Having regard to the Commission's examination of the Australian industry and the goods in previous cases<sup>27</sup> and verification of exporters in Taiwan in the current review<sup>28</sup>, the Commission is satisfied that the locally produced goods closely resemble the goods the subject of the application and are like goods given that:

- the primary physical characteristics of the locally produced goods closely resemble the imported goods;
- the imported and locally produced goods are commercially alike as they are sold to the same customers and/or compete in the same markets;
- the imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable; and
- the imported and locally produced goods are manufactured in a similar manner.

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<sup>27</sup> [REP 400](#) and [REP 454](#) refer.

<sup>28</sup> EPR 528, documents [14](#), [15](#) and [16](#) refer.

**4 EXPORT PRICE AND NORMAL VALUE**

**4.1 Findings**

The Commission has found that the export price and the normal value relevant to the taking of the anti-dumping measures have changed.

The Commission has calculated the dumping margins set out in the following table.

Exporter	Dumping margin
China Steel Corporation	- 5.4%
Chung Hung Steel Corporation	- 8.9%
Shang Chen Steel Co., Ltd	- 3.2%
Uncooperative and all other exporters	- 0.6%

**Table 7 - Dumping margins during review period**

**4.2 Legislative and policy framework**

The export price and normal value of goods are determined under sections 269TAB and 269TAC, respectively.

**4.2.1 Normal value**

Section 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 (OCOT) 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.

Section 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under section 269TAC(1). Relevant sales are sales of like goods sold for home consumption that are arms length transactions and sold in the OCOT.

Domestic sales of like goods are taken to be in a low volume where the total volume of like goods is less than five per cent of the total volume of the goods under consideration that are exported to Australia (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison). As per the *Dumping and Subsidy Manual*, where the total volume of relevant sales is five per cent or greater than the total volume of the goods under consideration, and where comparable models exist, the Commission also considers the volume of relevant domestic sales of like goods for each model (or MCC).

**4.2.2 Export price**

Export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods are arms length transactions under section 269TAA. Section 269TAB(1)(a) generally provides that the export price of any goods exported to Australia is the price paid or payable for the goods by the importer where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in arms length transactions.

### **4.2.3 Dumping margins**

For all dumping margins calculated for the purposes of this review, the Commission compared the weighted average export prices over the whole of the review period with the weighted average of corresponding normal values over the whole of that period.

### **4.2.4 Uncooperative exporters**

Section 269T(1) provides that an exporter is an “uncooperative exporter” where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the review within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the review.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.

After having regard to the Customs Direction, the Commissioner has determined that all exporters which did not provide a REQ, or which did not request a longer period to provide a response within the legislated period, are uncooperative exporters for the purposes of this review.

### **4.2.5 Cooperative exporters**

Section 269T(1) provides that, in relation to a review of measures, an exporter is a ‘cooperative exporter’ where the exporter’s exports were examined as part of the review and the exporter was not an uncooperative exporter. The Commission considers that all exporters that provided a REQ to be cooperative exporters for the purposes of this review.

## **4.3 Exporter questionnaires and verification**

CSC, Shang Chen and Chung Hung each provided a detailed REQ, including data relating to Australian sales (where applicable), domestic sales, and details of the cost to make and sell (CTMS).

The Commission conducted an on-site verification of the information provided in CSC’s REQ. The Commission’s verification report is available on the Commission website.<sup>29</sup>

The Commission did not conduct an on-site verification of the information provided in Shang Chen’s REQ. The Commission compared the REQ data and information provided with data from the ABF import database and with data previously verified with respect to Shang Chen. The Commission also benchmarked Shang Chen’s sales and cost data against CSC’s verified data. The Commission’s verification report is available on the Commission website.<sup>30</sup>

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<sup>29</sup> EPR 528, document [14](#) refers.

<sup>30</sup> EPR 528, document [15](#) refers.

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The Commission did not conduct an on-site verification of the information provided in Chung Hung's REQ. Chung Hung confirmed there were no exports of the goods relevant to the review period. The Commission benchmarked the information provided in Chung Hung's REQ against the information (domestic sales and CTMS data) provided by the other exporters. The Commission's verification report is available on the Commission website.<sup>31</sup>

As a result of the above verification activities, the Commission is satisfied that the information provided by the exporters is accurate, relevant and complete.

### 4.4 CSC

#### 4.4.1 The exporter

The goods exported to Australia during the review period were produced by CSC and Dragon Steel Corporation (DSC). DSC is a wholly-owned subsidiary of CSC. The Commission notes:

- CSC manufactures the goods located in the country of export;
- goods manufactured by DSC are purchased by CSC, which then exports those goods;
- CSC is named as the seller on the sales contract;
- CSC is named as the issuer on the commercial invoice and packing list;
- CSC is named as the exporter on the customs export declaration;
- CSC is named as the supplier on the bill of lading;
- CSC arranges for transportation of the goods to the port of export;
- CSC pays for the port handling charges for the goods exported to Australia; and
- CSC knows that the goods are destined for Australia.

As CSC directed the production of the goods, took carriage of sourcing and allocating raw materials for both CSC and DSC and generally controlled DSC's production activities and customers for the goods, the Commission considers CSC is the principal in the transaction. For all Australian export sales during the review period, the Commission considers CSC to be the exporter of the goods.

#### 4.4.2 Export price

The Commission is satisfied that CSC is the exporter, as there was no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

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<sup>31</sup> EPR 528, document [16](#) refers.



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The export price for CSC was therefore calculated under section 269TAB(1)(a). Export prices were calculated at Free on Board (FOB) terms. Table 8 lists the MCCs relevant to CSC's export sales to Australia during the review period.

P-C-A-01-T1-W2	P-C-PI-01-T1-W1	P-S-A-01-T1-W2	P-C-PI-02-T4-W1
P-C-A-01-T2-W2	P-C-PI-01-T1-W2	P-S-A-01-T2-W2	P-C-PI-02-T4-W2
P-C-A-01-T3-W1	P-C-PI-01-T2-W1	P-S-A-01-T3-W2	P-C-PI-03-T3-W2
P-C-A-01-T3-W2	P-C-PI-01-T2-W2	P-C-A-03-T2-W2	P-C-PI-03-T4-W2
P-C-A-01-T4-W2	P-C-PI-01-T3-W1	P-C-A-03-T3-W2	P-C-PI-05-T3-W2
P-C-A-02-T1-W2	P-C-PI-01-T3-W2	P-C-A-04-T1-W2	P-C-A-02-T3-W2
P-C-A-02-T2-W2	P-C-PI-01-T4-W2	P-C-A-04-T2-W2	P-C-PI-02-T3-W2
P-C-A-02-T3-W1	P-C-PI-02-T3-W1	P-C-A-04-T3-W2	P-C-A-04-T4-W2

**Table 8 - Exported MCCs for CSC**

### 4.4.3 Normal value

CSC made sales to both related and unrelated customers in the Taiwan domestic market during the review period. The Commission examined whether there were any differences in approach to these customer types, and notes that:

- the terms of sale and prices do not vary as between related and unrelated customers, with pricing set based on primarily the cost trend and market conditions;
- pricing guides provided to the verification team did not indicate any price difference between related and unrelated customers; and
- prices between related and unrelated customers were comparable, taking into account purchasing volume and models of the goods purchased.

In respect of CSC's domestic sales of like goods to its related and unrelated customers during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all domestic sales made by CSC during the review period were arm's length transactions.

The Commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia for the review period and found that the volume of domestic sales was sufficient (five per cent or greater). As a result, the Commission is satisfied that normal value can be ascertained under section 269TAC(1). Table 9 lists the MCCs relevant to CSC's domestic sales in Taiwan during the review period.

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P-C-A-01-T1-W1	P-C-PI-01-T1-W1	P-S-A-01-T1-W2	P-C-A-02-T4-W2	P-C-PI-03-T2-W1
P-C-A-01-T1-W2	P-C-PI-01-T1-W2	P-S-A-01-T2-W1	P-C-A-03-T1-W2	P-C-PI-03-T2-W2
P-C-A-01-T2-W1	P-C-PI-01-T2-W1	P-S-A-01-T2-W2	P-C-A-03-T2-W2	P-C-PI-03-T3-W1
P-C-A-01-T2-W2	P-C-PI-01-T2-W2	P-S-A-01-T3-W2	P-C-A-03-T3-W1	P-C-PI-03-T3-W2
P-C-A-01-T3-W1	P-C-PI-01-T3-W1	P-S-A-02-T3-W2	P-C-A-03-T3-W2	P-C-PI-03-T4-W1
P-C-A-01-T3-W2	P-C-PI-01-T3-W2	P-S-A-03-T3-W2	P-C-A-02-T2-W2	P-C-PI-02-T2-W2
P-C-A-01-T4-W1	P-C-PI-01-T4-W1	P-S-A-04-T3-W2	P-C-A-02-T3-W1	P-C-PI-02-T3-W1
P-C-A-01-T4-W2	P-C-PI-01-T4-W2	P-S-A-05-T3-W1	P-C-A-02-T3-W2	P-C-PI-02-T3-W2
P-C-A-02-T1-W2	P-C-PI-02-T1-W2	P-S-A-05-T3-W2	P-C-A-02-T4-W1	P-C-PI-02-T4-W2
P-C-A-02-T2-W1	P-C-PI-02-T2-W1	P-S-A-06-T0-W0	N-C-A-06-T0-W0	N-C-PI-06-T0-W0
N-S-A-06-T0-W0				

**Table 9 - Domestic MCCs for CSC**

With respect to the models sold domestically, the Commission is satisfied there are sufficient volumes of domestic sales of all but two models that were exported to Australia from Taiwan that are arms length transactions, and at prices within the OCOT.

For the two export models where there were insufficient sales of the same model on the domestic market in the OCOT, specification adjustments were made to the selling price of the closest matching domestic model with sufficient sales in the OCOT to determine the normal value. Table 10 notes these specification adjustments.

Export MCCs	Treatment of normal value where insufficient domestic sales
P-C-A-04-T1-W2	Surrogate model P-C-A-04-T2-W2 with specification adjustment under section 269TAC(8) for the price difference in thickness based on CSC's price lists.
P-C-PI-02-T4-W1	Surrogate model P-C-PI-02-T4-W2 with specification adjustment under section 269TAC(8) for the price difference in width based on CSC's price lists.

**Table 10 - Application of specification adjustment to domestic MCCs to enable comparison with export MCCs for CSC**

#### 4.4.4 Adjustments

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8), and considers these adjustments necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction / addition
Domestic inland transport	<b>Deduct</b> an amount for domestic inland transport
Domestic packaging	<b>Deduct</b> an amount for domestic packaging
Domestic commission	<b>Deduct</b> an amount for domestic commission paid by DSC to CSC
Export packaging	<b>Add</b> an amount for export packaging
Export inland transport	<b>Add</b> an amount for export inland transport
Export port handling charges	<b>Add</b> an amount for port charges
Export bank charges	<b>Add</b> an amount for bank charges
Export commissions	<b>Add</b> an amount for export commission paid by DSC to CSC, and CSC to its related trading entity (China Steel Global Trading)
Specification adjustment	Table 10 refers

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Table 11: Adjustments made to CSC normal value

### 4.4.5 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by CSC for the review period. The dumping margin is **negative 5.4 per cent**.

The Commission's calculations are included at **Confidential Attachment 1**.

## 4.5 Shang Chen

### 4.5.1 The exporter

In respect of the goods supplied by Shang Chen to customers in Australia during the review period, the Commission notes that Shang Chen:

- is the manufacturer of the goods;
- is named on the commercial invoice as the supplier;
- is named as the consignor on the bill of lading;
- arranges and pays for the inland transport to the port of export; and
- arranges and pays for the port handling charges at the port of export.

The Commissioner is therefore satisfied that Shang Chen is the exporter of the goods.

### 4.5.2 Export price

The Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

Accordingly, the Commission calculated the export price for Shang Chen under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation. Export prices were calculated at FOB terms. Table 12 lists the MCCs relevant to Shang Chen's export sales to Australia during the review period.

P-C-A-1-T1-W1	P-C-A-2-T3-W1	P-S-A-1-T2-W2	P-S-A-1-T1-W1
P-C-A-1-T1-W2	P-C-A-3-T3-W1	P-S-A-1-T3-W1	P-S-A-1-T1-W2
P-C-A-1-T2-W2	P-C-A-3-T3-W2	P-S-A-1-T3-W2	P-S-A-2-T3-W2
P-C-A-1-T3-W1	P-C-A-1-T3-W2	P-C-A-1-T4-W2	P-S-A-3-T3-W2

Table 12 - Exported MCCs for Shang Chen

### 4.5.3 Normal value

Shang Chen made sales to only unrelated customers in the Taiwan domestic market during the review period. The Commission found no evidence that:

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- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all domestic sales made by Shang Chen during the review period were arms length transactions.

The Commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia for the review period and found that the volume of domestic sales was sufficient (five per cent or greater). As a result, the Commission is satisfied that normal value can be ascertained under section 269TAC(1). Table 13 lists the MCCs relevant to Shang Chen's domestic sales in Taiwan during the review period.

N-C-A-1-T1-W1	N-C-A-5-T3-W1	P-C-A-2-T4-W2	N-C-A-3-T3-W2	P-C-A-1-T2-W2
N-C-A-1-T1-W2	N-C-A-5-T3-W2	P-C-A-3-T3-W2	N-C-A-3-T4-W2	P-C-A-1-T3-W1
N-C-A-1-T2-W1	N-C-A-5-T4-W1	P-C-A-3-T4-W2	N-C-A-5-T1-W1	P-C-A-1-T3-W2
N-C-A-1-T2-W2	N-C-A-5-T4-W2	P-C-A-5-T1-W1	N-C-A-5-T1-W2	P-C-A-1-T4-W1
N-C-A-1-T3-W1	N-C-A-5-T5-W2	P-C-A-5-T1-W2	N-C-A-5-T2-W1	P-C-A-1-T4-W2
N-C-A-1-T3-W2	N-S-A-5-T1-W1	P-C-A-5-T2-W2	N-C-A-5-T2-W2	P-C-A-2-T3-W2
N-C-A-1-T4-W1	P-C-A-1-T1-W1	P-C-A-5-T3-W1	P-C-PI-1-T1-W2	P-C-PI-5-T2-W2
N-C-A-1-T4-W2	P-C-A-1-T1-W2	P-C-A-5-T3-W2	P-C-PI-1-T2-W2	
N-C-A-2-T4-W2	P-C-A-1-T2-W1	P-C-A-5-T4-W2	P-C-PI-1-T3-W2	

**Table 13 - Domestic MCCs for Shang Chen**

With respect to the models sold domestically, the Commission is satisfied there are sufficient volumes of domestic sales of seven models that were exported to Australia from Taiwan that are arms length transactions, and at prices within the OCOT.

For the remaining export models where there were insufficient sales of the same model on the domestic market in the OCOT, specification adjustments were made to the selling price of the closest matching domestic model with sufficient sales in the OCOT to determine the normal value. Table 14 notes these specification adjustments.

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Export MCCs	Treatment of normal value where insufficient domestic sales
P-C-A-2-T3-W1	Surrogate model P-C-A-3-T3-W2 with specification adjustment under section 269TAC(8) for the price difference in width and grade based on Shang Chen's domestic cost to make (CTM) data.
P-C-A-3-T3-W1	Surrogate model P-C-A-3-T3-W2 with specification adjustment under section 269TAC(8) for the price difference in width based on Shang Chen's domestic CTM data.
P-S-A-1-T1-W1	Surrogate model P-C-A-1-T1-W1 with specification adjustment under section 269TAC(8) for the price difference in form based on Shang Chen's domestic CTM data.
P-S-A-1-T1-W2	Surrogate model P-C-A-1-T2-W2 with specification adjustment under section 269TAC(8) for the price difference in form based on Shang Chen's domestic CTM data.
P-S-A-1-T2-W2	Surrogate model P-C-A-1-T2-W2 with specification adjustment under section 269TAC(8) for the price difference in form based on Shang Chen's domestic CTM data.
P-S-A-1-T3-W1	Surrogate model P-C-A-1-T3-W1 with specification adjustment under section 269TAC(8) for the price difference in form based on Shang Chen's domestic CTM data.
P-S-A-1-T3-W2	Surrogate model P-C-A-1-T3-W2 with specification adjustment under section 269TAC(8) for the price difference in form based on Shang Chen's domestic CTM data.
P-S-A-2-T3-W2	Surrogate model P-C-A-2-T3-W2 with specification adjustment under section 269TAC(8) for the price difference in form based on Shang Chen's domestic CTM data.
P-S-A-3-T3-W2	Surrogate model P-C-A-3-T3-W2 with specification adjustment under section 269TAC(8) for the price difference in form based on Shang Chen's domestic CTM data.

**Table 14 - Application of specification adjustment to domestic MCCs to enable comparison with export MCCs for Shang Chen**

### 4.5.4 Adjustments

The Commission is satisfied there is sufficient and reliable information to justify the following adjustments in accordance with section 269TAC(8), and considers these adjustments necessary to ensure a fair comparison of Shang Chen's normal value and export price.

Adjustment Type	Deduction/addition
Domestic credit terms	<b>Deduct</b> an amount for domestic credit
Domestic inland transport	<b>Deduct</b> an amount for domestic inland transport
Domestic packaging	<b>Deduct</b> an amount for domestic packaging
Export inland transport	<b>Add</b> an amount for export inland transport costs
Export packing costs	<b>Add</b> an amount for export packing costs
Export handling costs	<b>Add</b> an amount for export handling costs
Export terminal handling	<b>Add</b> an amount for export terminal handling costs
Export container freight station fees	<b>Add</b> an amount for export container freight station fees
Export documentation fees	<b>Add</b> an amount for export documentation fees
Export handling charge and wharf passage fees	<b>Add</b> an amount for export handling charge and wharf passage fees
Export trade promotion fees	<b>Add</b> an amount for export trade promotion fees
Export harbour service fees	<b>Add</b> an amount for export harbour service fees
Export commissions	<b>Add</b> an amount for export commissions
Export bank charges	<b>Add</b> an amount for export bank charges
Specification	Table 14 refers
Timing adjustment	For certain models, <b>add or deduct</b> the difference in timing

**Table 15: Adjustments made to Shang Chen normal value**

#### **4.5.5 Dumping margin**

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Shang Chen for the review period. The dumping margin is **negative 3.2 per cent**. The Commission's calculations are included at **Confidential Attachment 2**.

### **4.6 Chung Hung**

#### **4.6.1 The exporter**

As discussed in section 4.2, the Commission did not conduct an on-site verification of the information provided in Chung Hung's REQ. The Commission conducted a desktop review of the information provided by Chung Hung by comparing it with other exporters' information relevant to the review, as well as comparing it with data provided by Chung Hung in the original investigation (REP 188), the subsequent continuation inquiry (REP 400) and review (REP 454). The Commission has found that during the original investigation period (1 April 2011 to 31 March 2012) and the period examined in REP 400 (1 January 2016 to 31 December 2016), Chung Hung produced HRC and exported it to Australia from Taiwan in arms length transactions to unrelated parties. Chung Hung also exported HRC to third countries during the review period.

The Commission is therefore satisfied that Chung Hung remains an exporter of HRC for the purpose of this review.

#### **4.6.2 Export price**

Chung Hung did not export the goods to Australia during the review period. The Commission has considered whether the requirements of section 269TAB(2A) have been met, and therefore, whether Chung Hung's export price is to be determined under section 269TAB(2B).

Section 269TAB(2A) specifies that the export price of the goods exported to Australia may be determined by the Minister in accordance with section 269TAB(2B) if:

- (a) the price is being ascertained in relation to an exporter of those goods (whether the review is of the measures as they affect a particular exporter of those goods, or as they affect exporters of those goods generally); and
- (b) the Minister determines that there is insufficient or unreliable information to ascertain the price due to an absence or low volume of exports of those goods to Australia by that exporter having regard to the following:
  - (i) previous volumes of exports of those goods to Australia by that exporter;
  - (ii) patterns of trade for like goods;
  - (iii) factors affecting patterns of trade for like goods that are not within the control of the exporter.

#### Exporter of the goods – section 269TAB(2A)(a)

As outlined in section 4.6.1, the Commission is satisfied that Chung Hung is an exporter of the goods.

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### Previous volumes of exports of those goods to Australia by Chung Hung – section 269TAB(2A)(b)(i)

The Commission has found that during the period examined in the original investigation (1 April 2011 to 31 March 2012) and the period examined in REP 400 (1 January 2016 to 31 December 2016), Chung Hung exported HRC to Australia from Taiwan. Chung Hung has not exported HRC to Australia since September 2016.

This analysis is outlined at **Confidential Attachment 3**.

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

The Commission examined the patterns of trade for like goods by reviewing exports from other exporters of like goods, and from other countries not subject to measures. The Commission also compared these patterns with those of Chung Hung to determine if changes in its export volume reflect broader market trends. This analysis is outlined at **Confidential Attachment 3**.

The Commission found that exports from Chung Hung to Australia declined markedly after the anti-dumping measures were implemented on exports of the goods from Taiwan. Exports from all other Taiwanese exporters declined overall, but remained steady as a proportion of the market during the period from 2012 to 2019.

The Commission interprets these results as the general market demand for the goods remaining persistent. Chung Hung's lack of exports during the review period does not appear to pertain to a lack or low volumes of HRC exported from Taiwan to Australia generally.

### Factors affecting patterns of trade for like goods that are not within the control of the exporter – section 269TAB(2A)(b)(iii)

The Commission notes the explanatory memorandum to the *Custom Amendment (Anti-Dumping Measures) Bill 2017* (the explanatory memorandum) identifies factors that may affect patterns of trade for like goods not within the control of the exporter.<sup>32</sup> Such factors may include supply disruptions or natural events (such as flood, drought, or fire) that affect production levels.

The Commission found that Chung Hung manufactured and sold like goods on the domestic market and to third countries during the review period. The Commission suggests this indicates an absence of factors (such as natural events) not within Chung Hung's control affecting trade for like goods. This analysis is outlined at **Confidential Attachment 3**.

### Commission's consideration – section 269TAB(2A)

Having regard to the above, the Commission considers that, for Chung Hung, there is insufficient or unreliable information to ascertain an export price due to the absence of exports to Australia from Chung Hung. The Commission therefore considers it appropriate to ascertain export prices under section 269TAB(2B). Pursuant to this section, the Commission is able to determine an export price having regard to any of the following:

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<sup>32</sup> Refer page 31 of the [explanatory memorandum](#).



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- a previous export price for the goods exported to Australia by Chung Hung, established in accordance with section 269TAB(1), for a decision of a kind mentioned in section 269TAB(2D);<sup>33</sup>
- the price paid or payable for like goods sold by Chung Hung in arms length transactions for exportation from Taiwan to a third country determined by the Minister to be an appropriate third country;<sup>34</sup> or
- an export price for like goods exported to Australia from HRC by another exporter (or exporters) established in accordance with section 269TAB(1) for a decision mentioned in section 269TAB(2D).<sup>35</sup>

### Previous export price – section 269TAB(2B)(a)

Chung Hung's export price in the original investigation (REP 188) and subsequent continuation inquiry (REP 400) was established pursuant to section 269TAB(1)(a). Notice of the decision under section 269ZHG(1) following REP 400 was published on 18 December 2017.

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

The Commission found that during the review period Chung Hung sold like goods to third countries including Korea, Malaysia, Vietnam and Pakistan. The REQ provided information including export destinations, annual quantity, shipping terms and total sales in United States Dollars.

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

In applying the provisions of section 269TAB(2B)(c), the Commission examined the export price of other exporters in the same review period, and for which an export price for each was determined under section 269TAB(1) for the purposes of this review.

### Commission's consideration – section 269TAB(2B)

The Commission considers the most appropriate method of ascertaining Chung Hung's export price is to use section 269TAB(2B)(c), being a weighted average export price for like goods exported to Australia from Taiwan by other exporters for which an export price was established under section 269TAB(1) for the purposes of the review. This method reflects actual prices received by other exporters for specific HRC grades, and reflects prevailing market conditions for HRC sold in the Australian market during the review period.

The Commission does not consider it preferable to have regard to the last established export price established for Chung Hung under section 269TAB(1) (pursuant to section 269TAB(2B)(a) and adjusted under section 269TAB(2G)(a)), nor to third country export prices (pursuant to section 269TAB(2B)(b)). There is no hierarchy specified as to these options. In the Commission's view, the weighted averages of prices actually achieved by other exporters during the review period, having regard to their MCCs, provides the most

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<sup>33</sup> Section 269TAB(2B)(a).

<sup>34</sup> Section 269TAB(2B)(b).

<sup>35</sup> Section 269TAB(2B)(c).



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accurate indication of the prices at which Chung Hung's exports needed to be at to be competitive with other Taiwanese exporters if it had been active in the market.

Under section 269TAB(2G) the export price may be subject to such adjustments that the Minister determines are necessary to reflect what the export price would have been had there not been an absence of exports. Accordingly, to establish a reflective export price for Chung Hung, where models exported to Australia by CSC and Shang Chen were not produced by Chung Hung (and therefore a corresponding normal value would not be available), these models were removed from the calculation of the export price.

Accordingly, the Commission calculated the export price for Chung Hung after having regard to the export prices established under section 269TAB(1)(a) for CSC and Shang Chen, calculated at FOB terms. Table 16 lists the MCCs relevant to these export sales to Australia during the review period.

P-C-A-1-T1-W1	P-C-A-1-T1-W2	P-C-A-2-T3-W2	P-C-A-1-T2-W1	P-C-A-1-T2-W2
P-C-A-1-T3-W1	P-C-A-1-T3-W2	P-C-A-3-T3-W2	P-C-A-1-T4-W1	P-C-A-1-T4-W2

**Table 16 - Exported MCCs for comparison to Chung Hung's normal value**

The Commission found these MCCs also accounted for the majority of Chung Hung's domestic sales (more than 90 per cent).

### 4.6.3 Normal value

Chung Hung made sales to only unrelated customers in the Taiwan domestic market during the review period. The Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all domestic sales made by Chung Hung during the review period were arms length transactions.

The Commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia for the review period and found that the volume of domestic sales was sufficient (five per cent or greater). As a result, the Commission is satisfied that normal value can be ascertained under section 269TAC(1). Table 17 lists the MCCs relevant to Chung Hung's domestic sales in Taiwan during the review period.

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N-C-A-1-T1-W1	N-C-PI-1-T1-W2	P-C-A-1-T1-W1	P-C-A-3-T3-W1	P-C-PI-1-T1-W1
N-C-A-1-T1-W2	N-C-PI-1-T2-W2	P-C-A-1-T1-W2	P-C-A-3-T3-W2	P-C-PI-1-T1-W2
N-C-A-1-T2-W1	N-C-PI-1-T3-W1	P-C-A-1-T2-W1	P-C-A-3-T4-W1	P-C-PI-1-T2-W2
N-C-A-1-T2-W2	N-C-PI-1-T3-W2	P-C-A-1-T2-W2	P-C-A-3-T4-W2	P-C-PI-1-T3-W1
N-C-A-1-T3-W1	N-C-PI-1-T4-W2	P-C-A-1-T3-W1	P-C-A-5-T2-W1	P-C-PI-1-T3-W2
N-C-A-1-T3-W2	N-C-PI-2-T3-W2	P-C-A-1-T3-W2	P-C-A-5-T2-W2	P-C-PI-1-T4-W2
N-C-A-1-T4-W1	N-C-PI-2-T4-W2	P-C-A-1-T4-W1	P-C-A-5-T3-W1	P-C-PI-2-T1-W2
N-C-A-1-T4-W2	N-C-PI-5-T2-W1	P-C-A-1-T4-W2	P-C-A-5-T3-W2	P-C-PI-2-T2-W2
N-C-A-2-T2-W2	N-C-PI-5-T3-W1	P-C-A-2-T2-W2	P-C-A-5-T4-W1	P-C-PI-2-T3-W2
N-C-A-2-T3-W2	N-C-PI-5-T3-W2	P-C-A-2-T3-W1	P-C-A-5-T4-W2	P-C-PI-2-T4-W2
N-C-A-2-T4-W2	N-C-PI-5-T4-W1	P-C-A-2-T3-W2	P-C-Q-1-T3-W2	P-C-PI-5-T2-W1
N-C-A-3-T3-W2	N-C-Q-1-T3-W2	P-C-A-2-T4-W2	P-C-Q-5-T3-W1	P-C-PI-5-T2-W2
N-C-A-3-T4-W2	N-C-Q-5-T3-W1	P-C-PI-5-T4-W2	P-C-Q-5-T3-W2	P-C-PI-5-T3-W1
N-C-A-5-T2-W1	N-C-Q-5-T4-W1	N-C-A-5-T4-W1	P-C-Q-5-T4-W1	P-C-PI-5-T3-W2
N-C-A-5-T3-W2	P-C-PI-5-T4-W1			

**Table 17 - Domestic MCCs for Chung Hung**

The Commission is satisfied there are sufficient volumes of domestic sales of HRC, for most models exported to Australia from Taiwan that are arms length transactions, and at prices within the OCOT. For some models, the Commission considered that it was necessary to make an adjustment for timing in order to align the domestic models with those exported to Australia.

#### 4.6.4 Adjustments

The Commission is satisfied there is sufficient and reliable information to justify the following adjustments, in accordance with section 269TAC(8), and considers these adjustments necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Domestic credit terms	<b>Deduct</b> an amount for domestic credit
Domestic inland transport	<b>Deduct</b> an amount for domestic inland transport
Domestic warranty expense	<b>Deduct</b> an amount for domestic warranty expense
Export packaging	<b>Add</b> an amount for export packaging
Export handling	<b>Add</b> an amount for export handling
Export inland transport	<b>Add</b> an amount for export inland transport
Export port charges	<b>Add</b> an amount for export port charges
Export commission fee	<b>Add</b> an amount for export commission fees
Export bank charge	<b>Add</b> an amount for export bank charge
Timing	For certain models, <b>add or deduct</b> the difference in timing

**Table 18: Adjustments made to Chung Hung normal value**

#### 4.6.5 Dumping Margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Chung Hung for the review period. The dumping margin is **negative 8.9 per cent**. The Commission's calculations are included at **Confidential Attachment 4**.

#### **4.7 Uncooperative exporters**

As provided for in section 269TACAB(1), for uncooperative exporters, export price and normal value were worked out in accordance with section 269TAB(3) and section 269TAC(6) respectively by having regard to all relevant information. This section provides the Minister with a discretion and the Minister may consider several factors to determine which methodology would be preferable in the specific fact scenario.

The Commission considered that the most relevant and reliable information for the uncooperative exporters was the highest weighted average normal value and the lowest weighted average export price of those established for cooperating exporters. The Commissioner considers this was the preferable methodology because the verified information provided by the cooperating exporters revealed there was a range of normal values and export prices for the like goods and the Commission had no further relevant information.

The dumping margin applicable to uncooperative and all other exporters is **negative 0.6 per cent**. Details of the uncooperative and all other exporters calculation are at **Confidential Attachment 5**.

## 5 NON-INJURIOUS PRICE

### 5.1 Non-Injurious Price

The NIP is defined in section 269TACA as “the minimum price necessary to prevent the injury, or a recurrence of the injury” caused by the dumped or subsidised goods the subject of a dumping duty notice or a countervailing duty notice.

### 5.2 Lesser Duty Rule

The calculation of the NIP is relevant for the purposes of the lesser duty rule under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).<sup>36</sup> The level of dumping duty imposed by the Minister cannot exceed the margin of dumping, but, where the NIP of the goods is less than the normal value of the goods, the Minister must also have regard to the desirability of fixing a lesser amount of duty.

Pursuant to section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. Neither of those circumstances (being the composition of the Australian industry, or the method of ascertaining normal value in circumstances of a particular market situation in the country of export), are relevant to the present review.

### 5.3 Calculating the NIP

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). The Commission’s preferred approach to establishing the USP is set out in Chapter 23 of the *Dumping and Subsidy Manual* and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

In REP 188, the then Australian Customs and Border Protection Service (ACBPS) determined the USP to be a price equal to the respective normal value for each exporter. In the case of exports to the automotive sector, ACBPS found the NIP to be equal to determined export prices and therefore a floor price equal to the NIP (export price) was used. For all other exports, ACBPS found that the lesser duty rule did not come into effect.<sup>37</sup>

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<sup>36</sup> Section 8(5B) of the Dumping Duty Act refers.

<sup>37</sup> [REP 188](#), pages 76-79 refer. This approach occurred in the years prior to the decision in *Panasia Aluminium (China) Ltd v Attorney-General of the Commonwealth* [2013] FCA 870.

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In REP 400 and REP 454, the Commission established the USP by reference to BlueScope's CTMS, plus an amount for the profit actually realised during the relevant period that was examined. The Commission then made deductions for the profit obtained and the SG&A expenses and into store costs incurred by the most efficient importer amongst those verified during that case.

In the context of this review, BlueScope has submitted that it supports the use of the same methodology as was applied in REP 400 and REP 454.<sup>38</sup>

### 5.4 Preliminary Assessment of NIP

The Commission found that BlueScope was profitable in the period examined in this review, at the same time as negative dumping margins were established for all exporters from Taiwan and when there were no measures on HRC exported to Australia from any other country. The Commission therefore considers it is reasonable to establish the USP by reference to BlueScope's actual selling prices achieved during the review period, being a period unaffected by dumping.

From this USP, the Commission then made deductions for the profit obtained and the SG&A expenses and into store costs incurred by the most efficient importer in the review period to calculate a NIP at FOB delivery terms. Details of the USP and NIP calculations are at **Confidential Attachment 5**.

During the review period, the Commission found the NIP has changed based on the calculations above, and is operative for all exporters. The NIP is higher than was established in REP 454.

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<sup>38</sup> REP 400, [document 013](#) and REP 454, [document 04](#) refer.

## 6 FINDINGS AND PROPOSED RECOMMENDATIONS

### 6.1 Summary of findings

The Commission has found in relation to exports of the goods to Australia from Taiwan during the review period, the:

- the AEP has changed;
- the ANV has changed; and
- the NIP has changed.

### 6.2 Form of duty

The forms of duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. In relation to IDD, the forms of duty are:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).<sup>39</sup>

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty* (the Guidelines)<sup>40</sup> and relevant factors applicable to the market for the goods.

#### 6.2.1 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Minister exercises powers to ascertain an amount for the export price and the normal value.

#### 6.2.2 Floor price duty method

The floor price duty method sets a “floor” – for example a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the NIP, whichever becomes applicable under the duty collection system.

This duty method does not use an AEP as a form of “floor price” as occurs with the combination and fixed duty methods.

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<sup>39</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>40</sup> The Guidelines are available on the Commission [website](#).

### 6.2.3 *Ad valorem* duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single AEP is required when determining the dumping margin.

### 6.2.4 Combination duty method

The combination duty comprises two elements: the “fixed” element and the “variable” duty element. The fixed element is determined when the Minister exercises powers to “ascertain” an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the AEP.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the AEP, the variable component works to collect an additional duty amount (i.e. the difference between the AEP and the actual export price). It is called a “variable” element because the amount of duty collected varies according to the extent the actual export price is beneath the AEP.

## 6.3 Proposed recommendations

The Commission notes its earlier findings that the goods exported from Taiwan by the cooperating exporters were at undumped prices, and that the goods exported from Taiwan by the uncooperative exporters were at undumped prices. After having regard to these factors and the Guidelines, in the present circumstances, the Commission considers it appropriate to recommend the floor price duty method.

The Commissioner proposes to recommend that the variable factors relevant to the taking of the measures be altered, and that a floor price be set for each exporter by reference to the respective normal value or the NIP ascertained during the review period, whichever is the lesser.

The following table summarises the effect of these recommendations.

Exporter	Effective rate of duty	Variable (basis of floor price component)
China Steel Corporation	0%	The lower of ANV and NIP
Chung Hung Steel Corporation	0%	The lower of ANV and NIP
Shang Chen Steel Co., Ltd	0%	The lower of ANV and NIP
All other exporters	0%	The lower of ANV and NIP

**Table 19: Proposed measures applying to exports of HRC**

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### 7 LIST OF ATTACHMENTS

<b>Confidential Attachment 1</b>	CSC calculations
<b>Confidential Attachment 2</b>	Shang Chen calculations
<b>Confidential Attachment 3</b>	Chung Hung export price consideration
<b>Confidential Attachment 4</b>	Chung Hung calculations
<b>Confidential Attachment 5</b>	Non-injurious price calculations