Australian Government
Department of Industry, Science, Energy and Resources

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

TERMINATION REPORT

NO. 553-B

ALLEGED DUMPING AND SUBSIDISATION OF PAINTED STEEL STRAPPING

EXPORTED TO AUSTRALIA FROM THE PEOPLE'S REPUBLIC OF CHINA

BY

QINHUANGDAO JIASHILUN PACKAGING MATERIALS CO., LTD

26 October 2021

CONTENTS

ABBREVIATIONS

ABF	Australian Border Force
the Act	*Customs Act 1901* (Cth)
ADA	Antidumping Agreement
ADN	Anti-Dumping Notice
the applicant	Signode Packaging Group Australia Pty Ltd
China	The People's Republic of China
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 553	*Consideration Report No. 553*
CRC	cold rolled coil
CTM	Cost to Make
CTMS	Cost to Make and Sell
DS 529	WTO Panel Report Australia – *Anti-Dumping Measures on A4 Copy Paper*
EPR	Electronic Public Record
FOB	free on board
GOC	Government of China
GOC Advice	*Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry*
GOC Guidelines	*Notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities and Guidelines*
GOC Opinions	*The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry*
the goods	the goods the subject of the application (also referred to as the goods under consideration)
GOV	Government of Vietnam
the Guidance	*Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation*
HRC	hot rolled coil
HSS	hollow structural sections
Jiashilun	Qinhuangdao Jiashilun Packaging Materials Co Ltd
KRW	Korean won
the Manual	*Dumping and Subsidy Manual*
MCC	Model Control Code
MEPS	MEPS International Ltd
the Minister	The Minister for Industry, Energy and Emissions Reduction
NDRC	National Development and Reform Commission
NIP	Non-Injurious Price
OCOT	Ordinary Course of Trade
the Regulation	*Customs (International Obligations) Regulation 2015* (Cth)

REP 553	*Report No. 553*
REQ	Response to Exporter Questionnaire
RGQ	Response to Government Questionnaire
Sam Hwan	Sam Hwan Vina Co Ltd
SEF 553	*Statement of Essential Facts No. 553*
SG&A	selling, general and administrative expenses
Signode Australia	Signode Packaging Group Australia Pty Ltd
SOEs	state-owned enterprises
TER 553-B	*Termination Report No. 553-B*
Vietnam	The Socialist Republic of Vietnam
WTO	World Trade Organization

1 SUMMARY AND CONCLUSIONS

1.1 Introduction

This *Termination Report No. 553-B* (TER 553-B) has been prepared in response to an application by Signode Packaging Group Australia Pty Ltd (Signode Australia) seeking the publication of a dumping duty notice in respect of painted steel strapping (the goods) exported to Australia from the People's Republic of China (China) and the Socialist Republic of Vietnam (Vietnam) and a countervailing duty notice in respect of the goods from China.

Signode Australia, the sole member of the Australian industry manufacturing like goods, claims that it suffered material injury as a result of dumped and subsidised imports of the goods.

TER 553-B follows the publication of the *Statement of Essential Facts No. 553* (SEF 553) for this investigation[1] on 23 April 2021.

This termination report sets out the reasons the Commissioner of the Anti-Dumping Commission (the Commissioner) is terminating part of the dumping investigation in relation to Qinhuangdao Jiashilun Packaging Materials Co Ltd (Jiashilun) as well as terminating part of the subsidy investigation in relation to Jiashilun.

1.2 Scope of this report

This report concerns the termination of part of the dumping and subsidy investigations in relation to Jiashilun. Other matters examined in Investigation 553, including in relation to Sam Hwan Vina Co Ltd (Sam Hwan) and all other exporters from China and Vietnam are addressed in separate reports by the Anti-Dumping Commission (the commission) and will be made available on the commission's website.

1.3 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901*[2] (the Act) describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner when conducting investigations in relation to the goods covered by an application under section 269TB(1).

The commission has prepared this report to support the Commissioner in the consideration of the application, pursuant to the commission's function specified in section 269SMD.

1.3.1 Application

On 31 March 2020, Signode lodged an application alleging that the Australian industry has suffered material injury caused by the goods exported to Australia from China at dumped and subsidised prices and Vietnam at dumped prices.

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[1] Electronic Public Record (EPR) 553, Item 18.
[2] All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

Having considered the application, the Commissioner decided not to reject the application and initiated Investigation No. 553 on 27 May 2020.

Consideration Report No. 553 (CON 553) and a public notice (Anti-Dumping Notice (ADN) No. 2020/050) provide further details relating to the initiation of the investigation.[3]

1.3.2 The goods and like goods (Chapter 3)

The subject goods are further described in Chapter 3 of this report.

1.3.3 The Australian market (Chapter 4)

The Australian market for the goods and like goods is supplied from local production and by imports from several countries, including China and Vietnam.

1.3.4 Dumping assessment (Chapter 5)

In relation to the dumping investigation, the Commissioner has found that the goods exported by Jiashilun during the investigation period were not dumped. The commission has found a dumping margin for Jiashilun of **negative 1.4%**.

Accordingly, the investigation in so far as it relates to dumping, must be terminated in relation to Jiashilun pursuant to section 269TDA(1)(b)(i).

1.3.5 Countervailing assessment (Chapter 6)

In relation to the countervailing investigation, the Commissioner has found that the goods exported by Jiashilun during the investigation period were subsidised at negligible levels. The commission has found a subsidy margin for Jiashilun of **0.1%**.

Accordingly, the investigation in so far as it relates to subsidisation, must be terminated in relation to Jiashilun pursuant to section 269TDA(2)(b)(ii).

1.4 Conclusion

With respect to Jiashilun, the Commissioner is terminating the dumping investigation with under section 269TDA(1)(b)(i) and the countervailing investigation under section 269TDA(2)(b)(ii).

[3] EPR 553, Items 2 and 3.

2 BACKGROUND

2.1 Initiation

On 31 March 2020, Signode Australia lodged an application under section 269TB(1) seeking the publication of a dumping duty notice in respect of the goods exported to Australia from China and Vietnam and a countervailing duty notice in respect of the goods from China.

Having considered the application, the Commissioner decided not to reject the application and initiated Investigation 553 on 27 May 2020. The Commissioner also published notification of the initiation on 27 May 2020. CON 553 and ADN No. 2020/050 provide further details relating to the initiation of the investigation.[4]

In respect of this investigation:

- the investigation period for the purpose of assessing dumping and subsidisation is 1 April 2019 to 31 March 2020
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped and subsidised goods is from 1 April 2016.

2.2 Conduct of the investigation

2.2.1 Statement of essential facts

SEF 553 set out the facts on which the Commissioner proposed to base the recommendations in this report to the Minister.[5]

The initiation notice advised that the SEF would be placed on the public record by 14 September 2020. However, the due date for the SEF was extended.[6] SEF 553 was placed on the public record on 23 April 2021.[7] Following its publication on the public record, interested parties had until 13 May 2021 to respond to SEF 553.[8] The Commissioner considered submissions received in response to SEF 553 when making this report.

2.2.2 Australian Industry

The Commissioner considers that locally produced painted steel strapping are ‘like’ to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods, which comprises solely of Signode Australia.

[4] EPR 553, Items 2 and 3.
[5] At the time of publication of the SEF, the relevant Minister for anti-dumping decisions was the former Minister for Industry, Science and Technology. At the time of this report, the relevant Minister for anti-dumping decisions has changed to the Minister for Industry, Energy and Emissions Reduction.
[6] EPR 553, Items 7,13 and 17.
[7] EPR 553, Item 18.
[8] Unless an extension had been granted by the Delegate of the Commissioner.

The commission verified the information provided by Signode Australia in its application. The verification report is available on the public record.[9]

2.2.3 Importers

The commission identified several importers in the Australian Border Force (ABF) import database that imported the goods from China and Vietnam during the investigation period. The commission forwarded importer questionnaires to 22 importers and placed a copy of the importer questionnaire on the commission's website for completion by other importers who were not contacted directly.

Three importers provided responses. The commission selected two responses for verification. However, the commission did not complete either verification because both importers decided not to participate fully in a verification process.

2.2.4 Exporters

The commission forwarded questionnaires to 13 potential exporters of the goods from China and Vietnam, and placed a copy of the exporter questionnaire on the EPR.

Both Jiashilun and Sam Hwan requested extensions to provide a questionnaire response (REQ) which the commission granted.

Non-confidential versions of the REQs are available on the commission's website.[10] The commission conducted desktop verifications of the data provided by Jiashilun and Sam Hwan. These exporter verification reports are also on the commission website.[11]

2.2.5 Foreign Governments

The commission forwarded questionnaires to the Government of China (GOC) and the Government of Vietnam (GOV) at the beginning of the investigation. Both governments provided a response to the government questionnaire (RGQ), and the Commissioner considered each RGQ in reaching the conclusions contained within the SEF.[12]

2.3 Submissions received from interested parties

The commission received one submission from interested parties prior to the publication of SEF 553. The Commissioner considered this submission when reaching the conclusions contained within SEF 553 and is available on the public record.

Following the publication of SEF 553, the commission received the submissions detailed in the table below. The Commissioner considered these submissions in reaching the conclusions contained within this report.

[9] EPR 553, Item 16.
[10] EPR 553, Items 8 and 9.
[11] EPR 553, Items 14 and 15.
[12] EPR 553, Items 10 and 11.

Public Record Item No.	Interested Party	Date Received
20	Signode Australia	13 May 2021
21	Sam Hwan	16 May 2021
22	Government of China	21 May 2021
23	Sam Hwan	27 May 2021

Table 1 – Submissions considered after the SEF

2.3.1 Submission by Signode Australia

In its submission dated 13 May 2021[13], Signode Australia provided comments relating to the following issues in SEF 553:

(a) It unclear what delivery costs have been accounted for in the benchmark calculation for Chinese exporters.

(b) The coil prices for Chinese and Vietnamese exporters do not include pre-slitting costs and therefore the benchmark comparison understates the true cost of the coil by not taking into account additional pre-slitting costs.

(c) The commission should determine a particular market situation for the goods existed in Vietnam during the investigation period, and that normal value should have been constructed in accordance with subsection 269TAC(2)(c) for Sam Hwan and uncooperative exporters. In Signode Australia's view, the commission has not taken fully into account the influence and impact of the recently expired GOV programs, which along with Chinese imported prices for steel, would continue to influence the domestic steel prices in Vietnam.

(d) Whether all relevant costs and allocation of costs incurred by Sam Hwan in the production of the goods are complete and accurate. In addition, whether a downward adjustment for sales commission in Sam Hwan's domestic market is valid.

(e) The termination of the dumping investigation against Sam Hwan should not go ahead as the company has continued dumping the goods into Australia after the investigation period. This is based on Signode Australia's observations that Vietnamese imports post the investigation period have not trended consistently with raw material price increases over the same period.

(f) The commission's should have assessed the effect of exports from China and Vietnam cumulatively, in its injury analysis.

Issues (a) and (b) are relevant to the commission's findings in respect of Jiashilun. The commission has considered these in preparing TER 553-B and has addressed them where relevant throughout this report.

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[13] EPR 553, Item 20.

Issues (b), (c), (d) and (e) are relevant to the commission’s findings in respect of Sam Hwan. The commission has considered and addressed these in preparing *Termination Report No. 553-A*.[14]

Issue (f), which is relevant to all other Vietnamese exporters of the goods, is addressed in Report No. 553 (REP 553).

2.3.2 Submission by the Government of China

In its submission dated 21 May 2021[15], the GOC provided comments relating to the following issues in the SEF:

(a) the finding of a particular market situation for the goods in China

(b) the proper comparison test for comparing Chinese export prices with Chinese domestic prices

(c) the use of out-of-country costs for constructing normal value for Chinese exporters

(d) the use by the commission of domestic market prices in China for determining the adequacy of remuneration paid for raw materials by Chinese exporters of the goods in determining subsidy margins

(e) the adopting by the commission of a ‘default’ presumption its treatment of Chinese State-owned Enterprises (SOEs) as public bodies.

Issues (a), (b) and (c) above are considered relevant to the commission’s findings in respect of Jiashilun. The commission has considered these in preparing TER 553-B and has addressed them where relevant throughout this report.

The remaining issues are addressed in REP 553.

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[14] EPR 553, Item 26.

[15] EPR 553, Item 22.

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The commission is satisfied that the locally manufactured painted steel strapping are like goods to the goods the subject of the application.

3.2 Legislative framework

Section 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are 'like' to the imported goods. Section 269T(1) defines like goods as:

> *goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration*.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are 'like' to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

3.3 The goods

3.3.1 The goods description

The goods the subject of the application (the goods) are:

> *Painted steel strapping, of carbon steel, whether or not in coils, whether or not waxed, with a nominal width of 12 mm to 32 mm, a nominal thickness of 0.5 mm to 1.5mm.*
>
> *Stainless steel strapping and galvanised steel strapping are excluded from the goods.*

The goods are used in load containment or lifting in a range of industries. Hot rolled coil (HRC) or cold rolled coil (CRC) is the major raw material input. There are a number of grades of HRC and CRC used by producers in manufacturing painted steel strapping, which depend on the product and the logistics requirements.

3.3.2 Tariff classification of the goods

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:[16]

Tariff Subheading	Statistical Code	Description
7212	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF LESS THAN 600 mm, CLAD, PLATED OR COATED:	
7212.40.00	Painted, varnished or coated with plastics:	
	62	Of a width not exceeding 32 mm

Table 2 – General tariff classification for the goods

3.4 Model control codes

The commission applied a model control code (MCC) structure to identify key characteristics of the goods. The commission details its MCC structure practice in ADN No. 2019/132. The commission requested that interested parties provide sales and cost data in accordance with the MCC structure detailed in the table below.

	Category	Sub-Category	Identifier	Sales Data	Cost Data
1	**Hot rolled coil carbon content**	≤0.22 %	C1	Mandatory	Mandatory
		>0.22 % to ≤0.37 %	C2		
		>0.37 % to ≤0.0.54 %	C3		
		≥0.54 %	C4		
2	**Width**	≤12.7 mm	W1	Mandatory	Optional
		>12.7 mm to ≤16.0 mm	W2		
		>16.0 mm to ≤19.1 mm	W3		
		>19.1 mm to ≤32.0 mm	W4		
3	**Thickness**	≤0.7 mm	T1	Mandatory	Optional
		>0.7 mm to ≤1.0 mm	T2		
		>1.0 mm	T3		
4	**Break force**	≤10 KN	B1	Mandatory	Optional
		≥10 to <15 KN	B2		
		≥15 KN to <25 KN	B3		
		≥25 KN	B4		
5	**Metres per kilogram**	≤5 m/kg	S	Mandatory	Optional
		≥5 m/kg to <10 m/kg	M		
		≥10 m/kg	L		
6	**Coil winding**	Ribbon wound	R	Optional	Optional
		Mill/rope wound	M		
		Other (including not in coils)	O		

Table 3 – MCC Structure

[16] These tariff classifications and statistical codes may include the goods and non-subject goods. The listing is for convenience and reference only and does not form part of the goods description.

The commission has addressed any changes to the proposed MCC structure, or alterations in terms of its application in respect of each interested party, in the relevant verification reports which are available on the public record.[17]

3.5 Like goods

An application can only be made if there exists an Australian industry producing ‘like goods’ to the goods the subject of the application. The phrase ‘like goods’ is defined in section 269T(1). Sections 269T(2), 269T(3), 269T(4), 269T(4A), 269T(4B) and 269T(4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.[18]

The following analysis outlines the commission’s assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods.

3.5.1 Physical likeness

The commission has found that both the imported goods and the goods produced by the Australian industry are physically alike. Both are traded in a similar range of widths, thicknesses and break force, as specified in the goods description.

3.5.2 Commercial likeness

The commission has found that the imported and locally produced goods are commercially similar. Imported goods and goods produced by the Australian industry are interchangeable and compete in the same market sectors, e.g. steel, timber and mining industries, with direct price competition.

3.5.3 Functional likeness

The commission has found that the imported and locally produced goods are functionally alike as they compete for sales to the same customers for similar (or the same) end-uses, i.e. packaging in the steel, timber and mining industries.

3.5.4 Production likeness

The commission has found that the production processes and raw material inputs for the imported and locally produced goods are alike in all significant practical aspects. HRC CRC is the major raw material input.

3.5.5 Like goods assessment

Based on the findings above, the commission considers that goods produced by the Australian industry have characteristics identical or closely resembling the goods exported to Australia. The commission considers that:

- the goods and the domestically produced goods are physically alike, as they have the same or similar the primary physical characteristics

[17] EPR Items 14-16.
[18] See Chapter **Error! Reference source not found.** for further discussion on the Australian industry.

- the goods and the domestically produced goods are commercially alike, as they are sold to common users and directly compete in the same market
- the goods and the domestically produced goods are functionally alike, as they have a similar range of end uses
- the goods and the domestically produced goods are manufactured in a similar manner.

In light of the above, the Commissioner is satisfied that the Australian industry produces 'like goods' to the goods the subject of the application, as defined in section 269T.

4 AUSTRALIAN MARKET

4.1 Findings

The Commissioner has found that the Australian industry and imports from a number of countries, including the subject countries, supply the Australian market for painted steel strapping. In the investigation period, the highest import volumes originated from the subject countries.

4.2 Background

The analysis of the Australian market detailed in this chapter is based on verified information submitted by Signode Australia, import data from the ABF import database and verified exporter information.

4.3 Market structure

The Australian market for painted steel strapping consists of Signode Australia as the sole local manufacturer, exporters and importers, distributors, re-sellers and end-users.

Suppliers of painted steel strapping sell to a range of market sectors including food production, steel manufacturing, mining, paper, timber, wool and recycling.

4.3.1 Markets and distribution

Like goods manufactured by the Australian industry are produced for various markets within Australia, but not for any particular application or market segment. Like goods are usually available in stock to fulfil orders, with some products produced on request. Signode Australia distributes its goods from its warehouses located around Australia, either directly to its end-user customers or to third party distributors. There is no formal distribution arrangement between Signode Australia and the third party distributors, who may also import the goods.

Similar to the Australian industry, overseas producers who supply the Australian market have a similar product offering and service the Australian market in a manner comparable to the Australian industry. Overseas producers compete directly with the Australian industry and receive purchase orders from Australian customers directly. Importers of the goods into Australia may ship directly to an end-user customer's location or warehoused at an importer's facility before dispatch.

4.3.2 Supply

Painted steel strapping is a commodity product. Provided the goods meet the relevant grade requirements for the desired end-use, there are limited ways in which suppliers can differentiate their offering beyond price and service. In most circumstances, customers are able to easily change suppliers.

Signode Australia supplies like goods to end-users, either directly or through third party distributors, who use the goods, with no or only minimal alteration, for load containment.

In addition to domestic producers of like goods, producers from other countries supply the Australian market to their Australian customers directly or via Australian distributors. Overseas producers supply the same market segments as the Australian industry and in some cases the same customers.

Importers of painted steel strapping source from numerous countries, with the highest volumes over the investigation period coming from the subject countries.

4.3.3 Demand

The output of end-users of painted steel strapping drive demand, primarily from the following industries within Australia:

- steel manufacturing
- timber
- mining
- food production
- paper
- wool
- recycling.

The commission considers that movements in the above industries will accordingly impact demand for the goods and like goods.

4.4 Pricing

Signode Australia explained during verification it is a ‘price taker’ in the market and bases its prices on an import price parity pricing strategy, also taking into account its cost to make (CTM) the goods which are largely driven by raw material costs. However, there is little price transparency in the Australian market for painted steel strapping. As a result, its awareness of price in the market is generally via interactions with its customers or other publicly accessible market intelligence.

The price sensitivity of steel strapping is dependent on its application, with strapping used in simple applications being particularly price sensitive.

The commission’s examination of questionnaire responses from cooperating entities found that pricing for the goods exported to Australia from the subject countries is based on a ‘cost-plus’ pricing strategy. Exporters seek to set a price based on the CTM of the goods, largely driven by raw material costs, and maximising their margin over their costs, which is based on a consideration of prices offered by competing suppliers. Exporters and customers regularly negotiate prices on a transaction-by-transaction basis.

4.5 Market size

4.5.1 Initial application data

In its application, Signode Australia relied upon its own sales data in relation to the goods and import data for HTISC[19] 7212400062, ‘Flat-rolled products of iron or non-alloy steel, painted, with a width not exceeding 32 mm’ sourced from the Australian Bureau of Statistics (ABS).

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[19] Harmonised Tariff Item Statistic Code.

The HTISC used by Signode Australia in its application is the same as tariff subheading 7212.40.00, statistical code 62 in Schedule 3 to the *Customs Tariff Act 1995*. chapter 3.3.2 discusses this further.

4.5.2 Commission's assessment

The commission is satisfied that the tariff classification identified by Signode Australia is suitable for estimating the size of the Australian market.

In its examination of the volume of imports of the goods into Australia, the commission has used data extracted from the ABF import database in respect of consignments declared under the identified tariff classification. Data from the ABF import database is preferred over data from the ABS as it provides detail to a greater granular level.

To exclude outlying data, which may distort any findings, the commission has then filtered the data to exclude transactions where the Free on Board (FOB) price per tonne was outside a range of AUD$500 to AUD$5,000. The commission considers this a reasonable price range to use as a filter for the goods, based on the export price and normal values it observed during the investigation. The commission has also excluded transactions it determined were not in relation to the goods, based on the description recorded in the ABF import database.

The commission has then estimated the size of the Australian market for the goods from 1 April 2016 to 31 March 2020 using the import data as discussed above, along with verified sales data from Signode Australia.

5 DUMPING INVESTIGATION

5.1 Finding

The Commissioner has found that Jiashilun did not sell its exports of the goods during the investigation period at dumped prices. The commission's assessment has found a dumping margin for Jiashilun of **negative 1.4%**.

5.2 Legislative and policy framework

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively.

In the report to the Minister under section 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Minister must be satisfied of, in order to publish a dumping duty notice, is that the goods have been dumped.

Section 269TDA(1) also requires that the Commissioner must terminate the investigation, in so far as it relates to an exporter, if satisfied that there has been no dumping by the exporter, or there has been dumping during the investigation period, but the dumping margin is less than 2%.

5.2.1 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.

5.2.2 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.

5.2.3 Low volume of domestic sales

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 5% 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 Anti-dumping Commission *Dumping and Subsidy Manual* (the Manual), where the total volume of relevant sales is 5% 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).

5.2.4 Particular market situation

Section 269TAC(2)(a)(ii) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where the Minister is satisfied that because of a situation in the market of the country of export, such sales in that market are not suitable for use in determining a price under section 269TAC(1).[20]

Signode Australia alleged in its application that a particular market situation exists in relation to the domestic market for like goods in both China and Vietnam. Chapter **Error! Reference source not found.** discusses particular market situation further.

5.2.5 Dumping margin

For all dumping margins calculated for the purposes of the investigation, the commission compared the weighted average export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of the investigation period.

5.3 Dumping assessment – Jiashilun

5.3.1 Verification

The commission verified the information in Jiashilun's REQ. The commission is satisfied that Jiashilun is the producer and exporter of the goods. A report covering the commission's verification findings is available on the EPR.[21]

5.3.2 Export price

The commission considers Jiashilun to be the exporter of the goods, as Jiashilun:

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

In respect of Jiashilun's Australian sales of the goods to its 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

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[20] Referred to in this report as a 'particular market situation'.

[21] EPR 553, No. 015.

- the price appeared to be 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
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission considers that all export sales made by Jiashilun to Australian customers during the investigation period were 'arms length' transactions.

The commission determined an export price under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

5.3.3 Normal value

The commission considers that the situation in the domestic market for like goods in China is such that sales in that market are not suitable for use in determining a normal value for Jiashilun under section 269TAC(1). This is on the basis that those prices would not permit a proper comparison with the export price for the purposes of determining the dumping margin. A complete examination of this evidence for this finding is set out in **Non-confidential Appendices A and B**.

The commission has calculated a normal value for Jiashilun under section 269TAC(2)(c) using the sum of:

- the cost of production that reasonably reflects competitive market costs, that is, Jiashilun's cost of production in China absent the particular market situation, in accordance with section 43(2) of the Customs (International Obligations) Regulation 2015 (the Regulation)
- domestic selling, general and administrative expenses (SG&A) on the assumption that the goods, instead of being exported, were sold domestically based on Jiashilun's records in accordance with section 44(2) of the Regulation
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT[22] in accordance with section 45(2) of the Regulation.

In determining Jiashilun's cost of production, the commission examined Jiashilun's records relating to the goods and like goods and is satisfied that Jiashilun kept the records in accordance with generally accepted accounting principles (GAAP) in China.

Further, the commission assessed each of the individual cost items recorded in Jiashilun's records associated with the production of like goods. The commission was satisfied that Jiashilun's records reasonably reflect costs associated with the production of like goods.

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[22] Section 269TAAD states that domestic sales of like goods are not in the OCOT if 'arms length' transactions are unprofitable in substantial quantities over an extended period and unlikely to be recoverable within a reasonable period. For the purposes of this investigation, the 'extended period' and 'reasonable period' are the investigation period.

However, the commission was not satisfied that Jiashilun's records reasonably reflect competitive market costs associated with the production or manufacture of like goods. This was due to GOC influence in the domestic market in China for raw materials, in this instance CRC. The GOC's influence has led to the finding of a particular market situation for like goods. The commission considers that the GOC's influence on CRC costs leads the CRC costs in Jiashilun's records and Jiashilun's overall cost of production for like goods to not reflect competitive market costs.

Accordingly, the commission adjusted the CRC costs in relation to the production of like goods in Jiashilun's records to reflect competitive market costs, i.e. the costs absent the particular market situation caused by the GOC's influence. The commission has not adjusted any of the other items recorded in Jiashilun's cost of production.

After having made this adjustment, the commission considers that Jiashilun's records satisfy the requirements of section 43(2) of the Regulation. The commission consequently worked out the amount for the cost of production in Jiashilun's normal value under section 269TAC(2)(c) using information set out in Jiashilun's records.

Non-confidential Appendix C provides further details of this calculation.

5.3.4 Adjustments

The commission is satisfied that there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). The commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Export inland transport	Add an amount for export inland transport
Export port handling charges	Add an amount for port charges
Export bank charges	Add an amount for export bank charges
Non-refundable VAT	Add an amount for non-refundable VAT

Table 4 – Summary of adjustments (Jiashilun)

5.3.5 Dumping margin

The commission has calculated a dumping margin in respect of the goods exported to Australia by Jiashilun for the investigation period. The dumping margin is **negative 1.4%.**

This dumping margin differs from that in SEF 553 (which was negative 6.2%) because the commission made two changes to the normal value calculation:

- The commission removed a domestic inland transport adjustment which originally reduced Jiashilun's normal value. The commission removed this adjustment because the normal value for Jiashilun included SG&A costs, which omitted direct sales costs (such as domestic inland transport). As the constructed normal value already excluded domestic inland transport, no further adjustment was necessary.
- The commission revised its calculation of an adjustment to Jiashilun's costs of production. **Non-confidential Appendix C4** discusses this change in detail.

The commission's calculations are included at **Confidential Attachments 4 to 7**.

5.3.6 Submissions to the SEF in respect of the particular market situation

5.3.6.1 Submission by the Government of China

In its submission in response to SEF 553[23], the GOC made the following comments regarding the particular market situation finding:

- There is nothing 'distinct, individual, single, specific' about the situation of the painted steel strapping market in China.
- There has been no quantitative or qualitative assessment by the commission of the effect of various Chinese government policies regarding the Chinese steel industry.
- The GOC disagrees that the existence of such policies renders the Chinese market for the goods as being subject to a particular market situation.
- The only distinctive feature identified in SEF 553 was that HRC/CRC prices are lower in China compared to Korea and Taiwan.
- The Chinese steel market is the most competitive in the world in terms of the number of entities, the demand for steel, and the scale of industrial development.
- The GOC does not regulate or control steel prices which extends to HRC/CRC and painted steel strapping.
- SEF 553 provides no evidence that GOC policy and regulations would result in or cause lower HRC/CRC prices and that the lower prices are instead a result of Chinese economic conditions, market forces and competition.
- The measures the GOC has in place are aimed at reducing capacity, reducing over-competition and increasing environmental standards, which are more likely to increase prices.
- The assessment of a particular market situation in China should not be assessed on a benchmark found in a market not characterised by GOC influence.
- SEF 553 does not acknowledge the influence of iron ore prices on the cost of production and price of steel products which would make insignificant any influence GOC policy might have on steel prices.
- Relevant economic factors and conditions in China and the influence of international costs determine the prices and costs of steel production, including HRC and other inputs used for the production of the goods. They are no more and no less 'particular' than the economic factors and conditions that exist in other countries. It cannot be expected that the economic conditions relevant to HRC, or other steel products in China, would be identical to the conditions in any other country, whether that be Australia, Korea, or Vietnam.
- Lower prices in Korea and Taiwan can be explained by differences in the cost of steel making, the large number of competitors and strong competition in the Chinese domestic market, differences in product specification, economic conditions and other factors.
- SEF 553 indicates Chinese producers have lower conversion costs for the goods than Australian and Vietnamese producers and if the commission applied these findings to the steelmaking process more broadly, Chinese costs for HRC/CRC would also be lower than other countries.

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[23] EPR 553, Item 22.

The GOC's submission contains similar statements to its RGQ.[24]

5.3.6.2 Commissioner's response to the Government of China's submission

Nature of the particular market situation

In response to SEF 553, the GOC disagreed with the commission's view that a particular market situation exists in the domestic market for painted steel strapping. The GOC's submission disagrees that the existence of certain policies, or the fact that government policies and laws may 'influence' or be influenced by a particular industry, somehow renders the Chinese market for painted steel strapping as being subject to a 'particular market situation'. Citing a WTO Panel Report[25], the GOC submits that there is nothing 'distinct, individual, single, specific' about the situation of the painted steel strapping market in China.[26]

The commission notes that the DS529 Panel Report cited by the GOC closely considered the proper interpretation of the term 'particular market situation'. The report states:

> *…a 'situation' is a 'state of affairs' or a 'set of circumstances'. This term is qualified by the terms 'particular' and 'market' functioning as adjectives in Article 2.2 of the Anti-Dumping Agreement. The situation in question must arise in, or relate to the 'market', and the market situation must be a 'particular' one. It follows from the qualifier 'particular' that the market situation must be 'distinct, individual, single, specific'. Thus, a fact-specific and case-by-case analysis of the particular market situation is necessarily called for.*[27]

The commission considers that the facts and evidence before it support a finding that a particular market situation existed in relation to painted steel strapping in the investigation period. The particular market situation comprised of a 'state of affairs' or a 'set of circumstances' in respect of the buying and selling of the goods or like goods in China that is 'individual' or 'distinct'. Relevantly, the commission notes the following (which is further explained in Appendix A):

- The GOC's involvement and influence over the broader steel industry in China was the primary cause of prevailing structural imbalances for Chinese steel markets generally. By extension, this included the markets for HRC/CRC and painted steel strapping.
- The GOC's issuance of policies, planning guidelines and directives along with provisions of direct and indirect financial support supported over-investment in steel production capacity.
- The GOC supported inefficient enterprises, but did not support access to, and therefore restricted, import competition from foreign producers.
- The GOC's involvement and influence encouraged excessive production and over supply of primary steel, intermediate steel products (including HRC/CRC), and downstream steel products (including painted steel strapping).

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24 EPR 553, Item 10.

25 The WTO Panel Report *Australia – Anti-Dumping Measures on A4 Copy Paper* (DS529).

26 EPR 553, Item 22, page 03.

27 DS529 Panel report, para 7.21.

- In this case, HRC or CRC is the major raw material input used in the production of painted steel strapping. Coil costs (whether HRC or CRC) represent a significant and broadly consistent overall proportion of the CTM of painted steel strapping.
- The GOC's programs and policies in the steel industry increased the supply of HRC/CRC relative to demand. Over supply and low import penetration contributed to a situation, which significantly affected the dynamics and price setting in the domestic market. This manifested in lower prices and costs for HRC/CRC.
- The lower prices for HRC/CRC in turn affected the prices and costs for painted steel strapping.
- The resultant price of painted steel strapping in China is lower than it would otherwise be absent the particular market situation. The lower prices in China are confirmed by regional benchmarks that are unaffected by the particular market situation. The commission's observations regarding lower prices are the result of the GOC's involvement and influence.
- The structural imbalances, excess capacity and lack of import competition in China represent a state of affairs, which caused a distinct and unique situation in the market for painted steel strapping.

Taken together, the factors above clearly demonstrate a 'particular market situation' within Article 2.2 of the Anti-Dumping Agreement, being a state of affairs or a set of circumstances in respect of the buying and selling of painted steel strapping in China that was 'distinct' and 'individual'.

The commission therefore disagrees with the GOC's submission that there is nothing 'distinct' or 'particular' as to the market situation for painted steel strapping in China. Absent the GOC's involvement and influence, such a market situation for painted steel strapping may not have arisen.

Qualitative/quantitative assessment and evidence relied on

The GOC states that the only 'distinctive' feature that SEF 553 could identify was lower HRC/CRC costs and prices in China, as compared to Korea and Taiwan. Implicit in this argument and the GOC's related arguments is that lower HRC/CRC costs and prices are due solely to competitive market factors in China and that the particular market situation is not a factor in those lower prices and costs.

That HRC/CRC prices and costs are generally lower in China compared to Korea and Taiwan is accurate, but as stated in **Non-confidential Appendix A**, the commission found that the evidence before it demonstrates that the particular market situation is not an insignificant cause of the difference in HRC/CRC prices in China compared to Korea and Taiwan. In other words, lower HRC/CRC in China are a result of the particular market situation in China, rather than a cause of the particular market situation. The evidence relied on by the commission in making its finding includes:

- the level of import competition in the Chinese domestic market as a result of GOC involvement and influence over the broader steel industry as well as the HRC and painted steel strapping markets
- various subsidy programs, lending and credit facilities, preferential loans, land grants and capacity controls affecting domestic output and consumption of steel, noting that individual exporters will be affected differently based on the level of subsidisation they receive

- capacity management measures on bank lending to mills, industry consolidation and use of environmental requirements
- Chinese steel industry response to GOC directives such as the 13th *Five-Year Plan for National Economic and Social Development* and the *Iron and Steel Industry Adjustment and Upgrade Plan*
- implementation of GOC objectives through the National Development and Reform Commission (NDRC), through its dual role of developing planning guidelines and directives and approving large scale investment projects
- the share of total Chinese steel production by SOEs
- export taxes and export quotas on a number of key inputs in the steel making process including coking coal, coke, iron ore and scrap steel.

Comparative advantages

The commission acknowledges that internal economic factors in China, including a large number of participants in the market, as well as international economic factors that affect all global producers of steel products, such iron ore prices, are influential to the cost and price of steel in China. However, as detailed in **Non-confidential Appendix A**, the commission is satisfied that the various policies, subsidy programs, taxation arrangements, etc. which are provided by the GOC form part of the state of affairs contributing to the particular market situation. This state of affairs influences internal factors in a manner that is not insignificant and distort the HRC/CRC costs used in the production of like goods.

The commission further acknowledges the GOC observations that, in this investigation, Jiashilun's conversion costs from CRC to painted steel strapping were lower than the Australian and Vietnamese manufacturers of like goods that the commission examined. This indicates Chinese producers of painted steel strapping have a comparative advantage to other producers of painted steel strapping due to conversion cost efficiencies. Any such comparative advantages are reflected in Jiashilun's normal value insofar as these conversion costs are recorded in Jiashilun's records and were not adjusted by the commission. However, the GOC does not explain how its observation regarding conversion costs from CRC to painted steel strapping applies more generally to the steel making process. Specifically, the GOC has provided no evidence of how its observation regarding conversion costs from CRC to painted steel strapping is relevant to raw material inputs, e.g. HRC/CRC, which account for a high percentage of the overall CTM of the goods and like goods.

On this basis, the commission cannot make a broader finding as submitted by the GOC that the comparative advantage observed regarding conversion costs for painted steel strapping explains lower cost/lower prices of HRC/CRC in China. The comparative advantage that the GOC refers to does not negate the evidence the commission relied on which demonstrates that the effect of the particular market situation on HRC/CRC is not insignificant.

The commission also considered in this investigation whether it was possible to quantify any other comparative advantages and disadvantages experienced by the domestic Chinese producers. The commission considers that for any such quantification to be possible, the commission would need to:

- identify and quantify what the true, uninfluenced comparative advantage of the domestic Chinese market is, distinct from any advantages which are a result of the GOC influence
- identify and quantify the comparative disadvantages of the Chinese domestic market and
- only adjust for those 'true' comparative advantages and disadvantages. This would necessarily result in a determination of a 'net' figure in the form of an adjustment.

Noting the complexity and extent of the GOC influence in steel markets generally and the HRC/CRC market specifically, the commission considers that it is not possible to isolate and quantify a 'net' amount of comparative advantage (or disadvantage) enjoyed by Chinese domestic producers using the information before it.[28]

Iron ore

The GOC states that the SEF fails to acknowledge that the most influential factor in the cost of production and the prices of steel products in China is not the GOC's policies, but the cost of iron ore. The GOC's submission refers also to pages 8 to 10 of the RGQ, mentioning in particular the following:

- The data indicates that the iron ore industry in China is import-oriented. As iron ore is one of the main raw materials of steel product, the price of its downstream product, including the goods, is 'closely aligned' to the prices of iron ore. That is to say, one of the most significant factors in a Chinese steel producer's cost, and the steel price in China, is the price of iron ore from Australia.
- Steel prices in the Chinese market have trended in a similar fashion to the cost of the major raw material input, iron ore.
- Unless the Chinese steel market was to behave in a way that is inconsistent with market prices of iron ore, it is plainly impossible for any policy of the GOC to have a comparatively significant influence on the cost and prices of steel products in China.

The RGQ and other independent sources confirm that China imports a significant amount of iron ore, including a large proportion from Australia and Brazil. Despite being imported-oriented in relation to iron ore, the commission understands that some domestically sourced iron ore is used in Chinese steel production.[29]

The commission has examined iron ore prices and their significance to CRC/HRC, inputs used in the production of like goods during the investigation period. In doing so, the commission notes that roughly 1.5-1.6 tonne of iron ore is consumed for every one tonne of steel produced.[30] Using iron ore steel prices sourced from MEPS International Ltd

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[28] The commission notes that it came to similar conclusions in recent steel cases, refer to Report Nos. 419, 441, 466, 516, 517, 521/522 and 529.

[29] GOC RGQ, page 9. Refer also to https://www.scmp.com/economy/china-economy/article/3120761/how-iron-ore-powering-chinas-infrastructure-boom-and-why https://www.aspistrategist.org.au/no-end-in-sight-for-chinas-dependence-on-australian-iron-ore/

[30] Refer to https://www.bhp.com/what-we-do/products/iron-ore and https://www.scmp.com/economy/china-economy/article/3120761/how-iron-ore-powering-chinas-infrastructure-boom-and-why

(MEPS), a reputable independent supplier of steel market pricing data, the commission estimates that iron ore prices were roughly one quarter of Chinese CRC prices in the investigation period. The commission acknowledges the GOC's submission that iron ore is a significant factor in a Chinese steel producer's costs.

The commission also acknowledges the GOC's submissions that CRC prices in China are trending in a similar fashion to iron ore prices in the investigation period. However, the commission's acknowledgement does not amount to agreement with the GOC's statements that iron ore prices and painted steel strapping prices are 'closely aligned'. In addition, the commission does not agree that the GOC's observations about iron ore trends eliminates the possibility that GOC policies influence cost and prices of primary steel, intermediate steel products and downstream steel products in China to a degree that is not insignificant. The commission considers that CRC prices and painted steel strapping prices in China are lower than what they otherwise would be, absent the particular market situation caused by the GOC influence, noting the greater significance of other costs involved in the steel making process that are in addition to iron ore costs.[31]

The commission also clarifies that the SEF did not make any finding that the GOC's policies are the 'most influential factor' to the cost of production and the prices of steel products in China as implied by the GOC's submission. The commission also notes the GOC's point in its RQG where it states '…if the commission, for any reason, considers that the Chinese producer's cost of production can be rejected on the basis of 'abnormality' caused by any cost 'distortion' in the Chinese steel market, the commission must <u>properly identify and specify the effect of the distortion</u>' [emphasis added]. Broadly speaking, the commission does not consider there to be any requirement that the GOC's influence must be the 'most influential factor' or precisely measurable for there to be a particular market situation finding. The commission considers that the GOC's influence on the market for like goods in this investigation is not insignificant and, therefore, has enough of an impact, such that the market conditions for the like goods renders prices not normal and ordinary.

5.3.7 Submissions to the SEF in respect of the proper comparison of domestic and export prices

5.3.7.1 Submission by the Government of China

In its submission[32], the GOC disagreed with the commission's finding that if a particular market situation does not equally affect domestic sales and export sales, such a finding might render domestic sales not suitable for the purposes of proper comparison. The GOC submits the following:

- SEF 553 has not established that the alleged particular market situation has affected Chinese exporter domestic sales of the goods differently to its Australian sales.
- SEF 553 has found that the only difference between domestic and exported goods is to be found in the competitive market conditions in China and Australia, and there are major flaws in this approach.

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https://www.mining-technology.com/features/how-china-is-moving-beyond-australia-for-its-iron-ore-hunger/
[31] For example land, buildings, coal, scrap, gas, fluxes, alloys, electricity, labour, transport, SGA etc.
[32] EPR 553, Item 22.

- The proposition that because the cost of production in China is on average lower, therefore all competitors in that market compete on the same basis and have no competitive advantages or disadvantages between them is incorrect, and that the Chinese steel industry is highly dynamic and competitive and steel prices are unregulated.
- Lower production costs and prices in China compared to Australia reflects comparative advantages between different producers in different countries. The disadvantages suffered by Australian producers are higher overheads and has nothing to do with the cost of steel coil in China and Australia.
- There is nothing about Chinese market conditions that makes them more or less cost-efficient when producing the goods for the Chinese or Australian market.
- By the reasoning in SEF 553, once a particular market situation in the form of lower costs has been determined, it is inevitable the particular market situation impacts on a proper comparison is inevitable. As such, the price at which Chinese exporters sell the goods in Australia is irrelevant to the proper comparison determination in the SEF.
- By the reasoning in SEF 553, the only scenario in which the approach taken in the SEF would result in a conclusion that a particular market situation does not affect proper comparison would be where the exporter's home market and the Australian market have identical conditions of competition and identical prices. Such a scenario does not exist.

5.3.7.2 **Commissioner's response to the Government of China's submission**

The commission notes that the GOC in its RGQ did not provide substantive evidence regarding the Chinese market for the goods and advised the commission to undertake its own inquiry with market participants to gain further understanding of the Chinese market for the goods. However, the sole cooperating Chinese exporter, Jiashilun, stated in its REQ that it is unable to provide any specific detail regarding the market, including sources of demand, market segmentation and competition between Chinese and imported goods, other than an assertion the Chinese market for the goods is competitive.

The commission's findings are relevant to Jiashilun, as it was the only cooperating Chinese exporter in the investigation. The commission does not possess data on other Chinese manufacturers of the goods given that other Chinese exporters did not cooperate with the investigation. The commission has therefore drawn reasonable inferences regarding competition and competitive advantages or disadvantages between Chinese manufacturers informed by all information available to it.

As noted in **Non-confidential Appendix B**, the commission acknowledges that the evidence available suggests that the characteristics of the Chinese domestic market for the goods consists of a number of participants that compete with each other, albeit where a particular market situation distorts the costs of materials and production in a manner that affects all domestic producers. Based on the information available, the commission does not consider that all competitors in the market compete on the same basis and have no competitive advantages or disadvantages between them. The commission considers it likely that there are various levels of comparative advantage between Chinese exporters based on factors such as varying overhead costs and levels of efficiency (although it notes that there is a lack of cooperative exporter data to confirm this). However, the commission does consider that all exporters compete in a market impacted by a particular market situation that modifies the conditions of competition in a consistent manner for all market participants and as a result, Chinese producers have less flexibility with respect to price setting for sales of painted steel strapping in their domestic market.

In response to the GOC's submission that, applying the reasoning in the SEF, a finding of a particular market situation would inevitably lead to a finding that such a situation will affect a proper comparison, the commission notes the following:

- DS529 established that 'the "proper comparison" language calls for an assessment of the relative effect of the particular market situation on domestic and export prices' and that the relative effect 'is likely to depend significantly upon a number of factors, including the prevailing conditions of competition in each market and the existing relationship between price and cost'.[33]
- The 'relative effect' does not simply encompass differences in prevailing domestic and export prices. It encompasses an assessment of the relationship between price and cost and the conditions of competition in each market and how any differences in these factors impact an exporter's options to take advantage of an input cost decrease.[34]
- This assessment is fact-specific and must be made on a case-by-case basis.[35] All relevant factual circumstances, including the actions of individual market participants, must be taken into account.[36] An assessment using this approach will not necessarily lead to a determination that the relative effect is different in every case where a particular market situation exists in the exporting country but not in the importing country.

In this investigation, the commission has applied the approach outlined above in respect of the sole cooperating exporter and determined that the relative effect of the particular market situation on Chinese domestic and export prices of the goods in this case is not the same.

Another case, *Review 551 into A4 Copy Paper exported from Brazil, China, Indonesia and Thailand*, also applied the approach outlined above. However, under the different circumstances of that case, and contrary to the claims in the GOC's submission, the commission found that despite there being a particular market situation in Indonesia, the domestic sales of like goods in the Indonesian domestic market permitted a proper comparison with export prices of the goods exported to Australia for the relevant review period.[37]

5.3.8 Submissions to the SEF in respect of constructed normal values – China

5.3.8.1 **Submission by Signode Australia**

In its submission[38], Signode Australia claimed the benchmark cost for CRC does not include the slitting of coil for use in the manufacturing process of painted steel strapping, thereby 'understating the true cost of the raw material CRC input as supplied to the steel

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[33] DS529, paras. 7.75 and 7.80.
[34] DS529, para. 7.80.
[35] DS529, para. 7.76.
[36] DS529, paras. 7.80 and 7.81.
[37] Available on the commission's website.
[38] EPR 553, Item 20.

strapping manufacturer's premises in China' as Chinese manufacturers purchase pre-slit coil. Signode Australia requested the commission recalculate the normal values for Jiashilun and all other Chinese exporters to include the cost of slitting the coil.

Signode Australia also sought clarification if the MEPS CRC prices used in the benchmark analysis between China, Korea and Taiwan included delivery cost, claiming it is a cost incurred by Chinese exporters from a domestic supplier of raw materials.

5.3.8.2 **Commissioner's response to Signode Australia's submission**

The commission is satisfied that the benchmark cost for CRC used to calculate the level of distortion of Chinese CRC prices is comparable to the CRC price supplied to steel strapping manufacturers in China. The commission confirmed during verification of Jiashilun that the slitting of coil is part of the steel strapping production process[39] and is incorporated in the production cost and not included in the cost of raw material. The commission has therefore not made further adjustments to the benchmark cost for CRC.

The commission confirms that adjustments made to the MEPS CRC price for China include delivery cost. However, as the commission has amended its raw material cost adjustment based on Jiashilun's verified CRC purchase prices instead of the MEPS Chinese CRC price, as discussed in **Non-confidential Appendix C**, this is no longer relevant. The commission confirms that delivery costs have been included in Jiashilun's CRC purchase price, as well as the MEPS CRC price for Korea and Taiwan.

5.3.8.3 **Submission by the Government of China**

In its submission[40], the GOC submitted that the commission's approach in SEF 553 to calculate the normal value for Chinese exporters by reference to the 'competitive market costs' of CRC in Korea and Taiwan was inconsistent with both Australian domestic law and the ADA. The GOC submits that, pursuant to previous rulings by the World Trade Organization (WTO), the commission cannot rely upon an external 'benchmark' cost in an exporter's constructed normal value.

5.3.8.4 **Commissioner's response to the Government of China's submission**

The commission notes that it did not replace cost items which it considered were unaffected by the particular market situation, i.e. conversion costs from CRC[41] to painted steel strapping which includes elements of labour costs, manufacturing overheads and other material costs. The commission used those costs as reported in Jiashilun's records to calculate its normal value.

In determining the method for replacing steel coil costs, the commission first considered whether it could use prices paid by Chinese producers of the goods in China. As the commission had found the particular market situation affected all supplies of steel coil in

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[39] See chapter 2.1 of Jiashilun Verification Report, EPR 553, Item 15.

[40] EPR 553, Item 22.

[41] The commission notes that Jiashilun is not an integrated steel producer and purchases its CRC from suppliers. For this reason, the commission is unable to examine individual cost items involved in the production of CRC.

China, it determined there was no suitable market price for steel coil in China available to use to calculate an adjustment.

The approach in using an external benchmark to adjust the raw material costs of Chinese exporters is consistent with chapter 9.3 of the Manual. It provides that a substitute value for a major cost input may be ascertained using other country surrogate prices, where prices paid to input suppliers do not reflect a competitive market price for that input and government influence is found to extend to all suppliers of that cost input (as is the case here). The commission considers this practice is consistent with the Act. Moreover, since the use of the external benchmark is to eliminate the effect of a particular market situation which prevents the proper comparison of Chinese domestic and export prices for painted steel strapping, it is also consistent with the applicable provisions of the WTO Anti-Dumping Agreement, as interpreted and applied in DS529.

6 SUBSIDY INVESTIGATION

6.1 Finding

The Commissioner has found that the goods exported by Jiashilun during the investigation period were subsidised at negligible levels.

The commission's assessment of Jiashilun found a subsidy margin of **0.1%**.

6.2 Legislative and policy framework

A subsidy is present where an entity that is producing or exporting the goods to Australia receives a contribution from a government or public body, or a private body under instruction from a government or public body, which confers a benefit, whether direct or indirect, to that company in respect of the goods. A benefit results when the entity is financially better off for having received the contribution than they would have been had they had to turn to the market instead. The definition of 'subsidy' is in section 269T(1).

A subsidy must be specific in order to be countervailable. Specific subsidies are those targeted at individual entities or certain sections of the economy, as described in Section 269TAAC.

In the report to the Minister under section 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a countervailing duty notice under section 269TJ.

Section 269TACD provides that if the Minister is satisfied that a countervailable subsidy has been received in respect of the goods, the Minister must, if the amount of the subsidy is not quantified by reference to a unit of the goods, work out how much of the subsidy is properly attributable to each unit of the goods.

Section 269TDA(2) requires that the Commissioner must terminate the investigation, in so far as it relates to an exporter, if satisfied that no countervailable subsidy has been received by the exporter in respect of the goods, or a countervailable subsidy has been received during the investigation period, but the subsidy never exceeded the negligible level outlined in section 269TDA(16).

6.3 Investigated programs

The applicant alleged the existence of 45 programs in relation to exports of the goods from China, based on previous findings made by the commission in respect of subsidies received for other products manufactured in China from HRC, specifically hollow structural sections (HSS). The applicant argued that such subsidies would be applicable to the goods because, like HSS, the production process relies on HRC as an input.

In respect of subsidies for HRC, the Manual provides that:

> *'Upstream' subsidy refers to a subsidy (non-export) paid to an input product such as raw material or a manufactured product used in the production of the goods in question, and countervailing action may be taken where the benefit received by the upstream recipient of the subsidy passed through, in whole or in part, to the downstream purchaser.*

> *Where it is established that the price of the input product reflects the benefit of the subsidy, in whole or in part, received by the upstream supplier, then the downstream purchaser is taken to have received a subsidy.*[42]

Consistent with the statement above, the commission is satisfied that subsidies for HRC or CRC may be applicable to the goods. Producers of the goods may receive such subsidies directly if they are integrated, i.e. produce the HRC or CRC inputs themselves. Alternatively, if the producers of the goods purchase HRC or CRC from upstream suppliers, such subsidies may pass through from the upstream supplier.

As discussed in **Non-confidential Appendix A6.1**, the commission considers that CRC and HRC costs are closely related, and any subsides on HRC would equally apply to CRC.

After considering the information before the commission on the identified subsidies, the commission is also satisfied that the subsidies may also be applicable to the goods, as HSS and the goods are in similar industries.

Information on a further 3 programs not previously identified was provided by the GOC and the cooperating exporter during the course of the investigation. This brought the total of investigated programs to 48.

The commission has investigated each of the 48 alleged subsidy programs.

6.4 Summary of programs

The commission's findings in relation to each program received under which Jiashilun received a subsidy is provided in **Non-confidential APPENDIX D**. Those programs not relevant to Jiashilun are discussed in REP 553.

6.5 Information considered by the commission

6.5.1 Information provided by exporters

The commission has relied upon information provided by Jiashilun in its REQ and during verification in assessing the alleged subsidy programs.

6.5.2 Information provided by the Government of China

In accordance with section 269TB(2C), the commission invited the GOC for consultations during the consideration phase of the investigation on the claims made by the applicant in relation to countervailable subsidies.

The commission sent a questionnaire to the GOC upon initiation of this investigation, which among other things included questions relating to each of the alleged subsidy programs identified in the application. The GOC's RGQ was provided to the commission on 15 August 2020[43] and has been considered by the commission as part of this investigation.

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[42] The Manual, chapter 19.
[43] EPR 553, Item 10.

The GOC submission dated 21 May 2021[44] also provided comments in relation to the subsidy investigation, but were not relevant to subsidies received by Jiashilun. These comments have therefore been addressed in REP 553.

6.5.3 Other information considered as part of this assessment

The commission also considered as part of this assessment:

- information provided in the application
- submissions received in relation to subsidies provided to Chinese exporters[45]
- information provided to the WTO by the GOC in July 2019 in its notification in the *New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures*[46]
- previous investigations by the commission into subsidies provided to Chinese exporters.

6.6 Subsidy Assessment – Jiashilun

Based on the information available to the commission, the commission has calculated a subsidy margin for Jiashilun of **0.1%.**

The commission's countervailable subsidy calculations for Jiashilun are contained in **Confidential Attachment 8**.[47]

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[44] EPR 553, Item 22.

[45] EPR 553, Item 12 – Signode Australia Exporter Briefing.

[46] Available on the WTO website at https://www.wto.org/english/tratop_e/scm_e/scm_e.htm

[47] This attachment has been kept confidential as it contains commercially sensitive information relating to exporters.

7 NON-INJURIOUS PRICE

The non-injurious price (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. The commission will generally derive the NIP from the Australian Industry's unsuppressed selling price (USP).

Where the Minister is required to determine the interim dumping duty (IDD), section 8(5B) of the *Customs Tariff (Anti-Dumping) Act* 1975 (Dumping Duty Act) applies. Where the Minister is required to determine both interim countervailing duty (ICD) and IDD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

Sections 8(5B), 8(5BA) and 10(3D) require the Minister to have regard to the 'lesser duty rule' when determining the ICD and IDD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. In respect of concurrent dumping and countervailing notices, the lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty, such that the sum of the export price of the goods ascertained for the purposes of the notices, the ICD and IDD, do not exceed the NIP.

However, pursuant to sections 8(5BAA), 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:[48]

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii)
- 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[49]
- if a countervailing subsidy has been received in respect of the goods – the country in relation to which the subsidy has been provided, has not complied with Article 25 of the WTO *Agreement on Subsidies and Countervailing* for the compliance period.

Nonetheless, the Minister is not required to consider imposing a lesser amount of duty, but may still wish to exercise the discretion to do so.

As the commission proposes to terminate the dumping and subsidy investigation as it relates to Jiashilun, the Minister need not have regard to the desirability of the lesser duty rule.

48 Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty and sections 10(3DA)(a) to (c) of the Dumping Duty Act concern the calculation of countervailing duty.
49 As defined in the *Customs (Definition of 'small-medium enterprise') Determination 2013.*

8 PARTIAL TERMINATION OF THE INVESTIGATION

8.1 Termination

Section 269TDA sets out the circumstances in which the Commissioner must terminate an investigation in its entirety, or solely in respect of a specific exporter. Section 269TDA provides for rules of termination on the basis of volumes and scale of dumping and subsidisation by countries and exporters.

8.1.1 Partial termination of dumping investigation

Section 269TDA(1)(b) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if satisfied that there has been no dumping by the exporter of any of those goods or that there has been dumping of any of those goods, but the dumping margin for the exporter is less than 2%.

The commission has determined a dumping margin of **negative 1.4%** for Jiashilun in respect of the goods exported to Australia during the investigation period:

Based on the findings in this report, the commission recommends that the Commissioner terminate the dumping investigation in relation to Jiashilun, on the basis there has been no dumping by Jiashilun in relation to the goods, in accordance with section 269TDA(1)(b)(i).

8.1.2 Partial termination of subsidy investigation

Section 269TDA(2)(b) provides that the Commissioner must terminate a subsidy investigation, in so far as it relates to an exporter of the goods, if satisfied that there has been no countervailable subsidies received by the exporter of some or all of the goods or that a countervailable subsidy has been received by the exporter in respect of the goods but it never, at any time during the investigation period, exceeded the negligible level of countervailable subsidy under section 269TDA(16).

Pursuant to section 269TDA(16)(b), for China, a countervailable subsidy is negligible if the subsidy, when expressed as a percentage of the export price of the goods, is not more than 2%.

The commission determined a subsidy margin of **0.1%** for Jiashilun in respect of the goods exported to Australia during the investigation period.

Based on the findings in this report, the commission recommends that the Commissioner terminate the subsidy investigation in relation to Jiashilun, on the basis that the countervailable subsidy received by Jiashilun in relation to the goods, never at any time during the investigation period, exceeded a negligible level, in accordance with section 269TDA(2)(b)(ii).

APPENDICES AND ATTACHMENTS

Non-confidential Appendix A	Assessment of particular market situation in China
Non-confidential Appendix B	Proper comparison of domestic and export prices
Non-confidential Appendix C	Constructed normal values
Non-confidential Appendix D	Assessment of alleged subsidy programs – Jiashilun
Confidential Attachment 1	CTM breakdown
Confidential Attachment 2	Australian market analysis
Confidential Attachment 3	Raw material cost analysis and benchmark calculation
Confidential Attachment 4	Jiashilun export price
Confidential Attachment 5	Jiashilun CTMS
Confidential Attachment 6	Jiashilun normal value
Confidential Attachment 7	Jiashilun dumping margin
Confidential Attachment 8	Jiashilun subsidy margin

APPENDIX A ASSESSMENT OF PARTICULAR MARKET SITUATION IN CHINA

A1 Introduction

Having regard to all available information, the commission's view is that a particular market situation exists in respect of the domestic market for painted steel strapping in China. The particular market situation renders sales in that market unsuitable for use in determining a price that would permit proper comparison with the export price in determining the margin of dumping.

A2 Australian legislation, policy and practice

Australia treats China as a market economy for anti-dumping purposes, and the commission conducts its investigation in the same manner for China as it does for other market economy members of the WTO.

Irrespective of the country whose products are the subject of investigation, the Australian anti-dumping framework allows for rejection of domestic selling prices as the basis for normal values where there is a 'particular market situation'. This is only if the particular market situation renders sales in that market unsuitable for use in determining a price that would permit proper comparison with the export price in determining the margin of dumping.

A2.1 Legislation

Section 269TAC(2)(a)(ii) implements, in part, Article 2.2 of the World Trade Organization (WTO) Antidumping Agreement (ADA):

> *When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country* [footnote omitted]*, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.*

Where a particular market situation is found to exist in the domestic market of the exporting country, pursuant to section 269TAC(2)(a)(ii), the commission must further consider whether, because of that situation, sales in that market are unsuitable for determining a price under section 269TAC(1) that would permit a proper comparison with the export price in determining the margin of dumping.

Where the commission determines that because of the particular market situation, such that domestic sales are unsuitable for determining a price under section 269TAC(1), normal values may instead be constructed under section 269TAC(2)(c) or determined by reference to prices from a third country under section 269TAC(2)(d).

A2.2 Policy and practice

The Act does not define or prescribe what is required to reach a finding of a particular market situation. A particular market situation will arise when there is some factor or factors impacting the relevant market in the country of export generally. When considering whether a particular market situation renders sales unsuitable for use in determining a normal value under section 269TAC(1), the commission may consider factors such as whether:

- the prices are artificially low
- there are other conditions in the market that render sales in that market not suitable for use in determining prices under section 269TAC(1).

The Manual provides further guidance on the circumstances in which the commission will find that a particular market situation exists.[50]

A3 Assessing particular market situation in this investigation

The commission has assessed whether a particular market situation exists in relation to the painted steel strapping market in the investigation period and whether such a particular market situation affects domestic sales in China in a manner that renders them unsuitable for determining a normal value for Jiashilun under section 269TAC(1).

In assessing whether a particular market situation exists due to government influence, the commission has assessed whether government involvement in the domestic market has distorted market conditions in a matter that is not insignificant. If government influence has distorted market conditions in a manner that is not insignificant, then domestic prices may be artificially low or not substantially the same as they would be in a market free of the particular market situation.

Prices for the like goods may also be artificially low or not substantially the same as they would otherwise be due to government influence of the particular market situation on the costs of inputs. The commission assessed the effect of any such influence on market conditions and the extent to which domestic prices prevail (or not) in a normal competitive market absent the particular market situation.

In making these assessments, the commission has relied on and considered all the evidence available to it, including the GOC's RGQ, Jiashilun's REQ, all relevant submissions made in this investigation, the findings of previous cases conducted by the commission and desktop research.

A complete examination of the evidence for this finding is below.

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[50] The Manual, p. 36

A4 The GOC role in the Chinese steel market

A4.1 Overview

The Chinese economy in general has undergone significant economic structural reforms to transition towards greater liberalisation of trade and foreign direct investment inflows and outflows. However, the role of government at all levels in the Chinese economy, controlling trade and foreign direct investment liberalisation for social and economic purposes, has created a hybrid system in China where decisions of the market are heavily influenced by government as opposed to conditions of competition. Simply put, Chinese firms selling and purchasing in China's steel markets set prices and make purchasing decisions that are influenced by the directives and policies of the GOC, competition with SOEs that reflect the economic, social and fiscal goals of the GOC as well as private firm competition on price, product and market share.

A4.2 GOC policies affecting the steel industry

The Chinese steel industry is of significant importance to China's national, economic and social security. Growth in this industry has been dependent on structured investment in, and funding of, fixed assets in SOE steel mills, steel production output for massive infrastructure and urbanisation projects supported by the GOC and export oriented trade.

A4.3 Initiatives influencing Chinese steel markets

In order to achieve such significant steel manufacturing output to achieve supply-side economic growth and reform, the GOC manages an array of subsidy programs, soft lending and credit facilities, preferential loans, land grants and capacity controls to drive domestic output and consumption of steel.

In recent years, China's steel industry has played an important role in its economic structural reform and as such, changes in response to global issues and concerns are slow and incremental. The commission understands that the GOC prefers incremental reform so as not to induce 'shock' changes and sudden reforms in its steel industry, which has the potential to risk the livelihoods of directly employed workers and workers employed in related industries.

Specific initiatives, implemented to address imbalances in the Chinese steel market broadly, include the Central Government's supply-side reform initiatives, *Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry* (GOC Advice) and *The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry* (GOC Opinions).

The GOC Advice proposed reducing SOE capacity by 100 to 150 million tonnes by 2020, via the banning of new capacity building and elimination of colloquially named 'zombie mills'.[51] The Central Government had also pledged a RMB 100 billion fund for employee

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[51] Liu. H & Song. L, 2016, pp338-339. AME Group, Steel 2016: June Quarter, Strategic Market Study. 2016, Q2. p.9. These mills would be shut down under normal competitive market conditions, due to either poor profitability or insolvency.

compensation, social security payments and plant closure incentives in the coal and steel sectors.[52]

The GOC Opinions forbid the registration of new production capacity in any form and requires that any production that does not meet environmental, energy consumption, quality, safety or technical standards be taken offline.[53]

The commission recognises the GOC's attempts to restructure and reorganise the industry to manage excess capacity, oversupply and environmental concerns. Examples of these capacity management measures announced include tightening bank lending to smaller mills, industry consolidation through mergers and acquisitions and use of stricter environmental requirements to forcibly shut down capacity.[54] While noting these efforts are targeted at correcting current imbalances and resulting distortions, the commission considers them to be evidence of the extent of the GOC's involvement within and influence over the broader steel industry during the investigation period.

One key concern with zombie mills is that they reflect capacity that is idle rather than capacity permanently removed from the market. This means that, while the temporary removal of this capacity has helped support competitive market conditions, those same plants have potential to return to production when higher steel prices prevail, leading to further distortions.[55] An example of this relates to a significant amount of capacity removed in 2016, which was already idle. The real capacity permanently removed is estimated to be in the range of 12 million to 20 million tonnes per year, compared to the reported 65 million tonnes.[56] As at April 2017, it was reported that China had an estimated 650 million tonnes of overcapacity, and favourable market conditions would likely extend the lifespan of zombie companies, delaying the GOC's steel industry reforms.[57]

In addition, local governments have not fully implemented the central directives on capacity reduction, with reports that steel mills engage in 'capacity swapping' by moving capacity to more favourable regions, thereby maintaining or increasing the mill's capacity.[58]

The effectiveness of the GOC's attempts to address overcapacity through mergers and acquisitions have been constrained by:

1. the replacement of older mills with new larger and more efficient mills
2. closing smaller mills to offset the commissioning of new larger mills.

While it is hoped that this will eventually improve the industry's structure over the longer term, its impact to date has been to increase production and exacerbate the existing

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[52] Duke Centre on Globalisation, Governance & Competitiveness (Duke Centre), 2016. *Overcapacity in Steel: China's role in a global problem*, September 2016, p.38.
[53] KPMG, 2016. The 13th 5 Year Plan: China's Transformation and Integration with the World Economy, p.29. Sourced from GOC Opinions, State Council, 4 February 2016.
[54] Platts, 2016. Global Market Outlook, Steel Business Briefing. January 2016, p.14.
[55] Platts, 2017. Global Market Outlook, Steel Business Briefing. January 2017, p.10.
[56] Ibid.
[57] DBS Asian Insights, China's steel sector supply reform, April 2017, p.5.
[58] Steel Guru, *China to further tighten steel capacity swapping rules - NDRC* (10 May 2019) and *China to Halt Capacity Swaps Project Approvals in Steel Industry* (24 January 2020).

structural imbalances. For example, the announcement of the creation of the BAOWU Steel Group indicated that it would decommission 2.5 million tonnes of capacity to address overcapacity. However, it also commissioned 9 million tonnes of new capacity at its Zhanjiang facility.[59] In 2019, BAOWU Steel Group expected to increase its annual steel production capacity by 20 million tonnes after an agreement to merge with Magang (Group) Holding Co Ltd.[60]

In citing the GOC's ongoing interventions within the domestic steel industry, it is the commission's view that these attempts to address existing structural imbalances have had limited success to date. Constraints in the effectiveness of these initiatives not only relate to the extent of the existing imbalances in the industry, but also difficulties in coordinating activities between central, provincial and local levels of government. The resistance of provincial and local governments to closing down mills relates to their role as major employers, sources of tax revenue and providers of social services within their respective regions.[61] Specific examples of these issues include the reliance of their tax systems on business revenue (including production based VAT) and gross domestic product oriented performance measures which encourage over-investment.[62]

A4.4 Industry planning guidelines and directives

The central body responsible for developing and administering planning directives, and providing overarching approval of large scale investment projects within China is the National Development and Reform commission[63] (NDRC). It is the commission's view that directives from the NDRC, as the GOC's central planning authority, would thus be central to both industry specific 'five-year plans' and the planning decisions of all levels of government more generally. More explicit enforcement mechanisms are reflected in the *Notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities and Guidelines* (GOC Guidelines).[64] Mechanisms to address non-compliance include:

- revoking of pollutant discharge permits
- restrictions on financial institutions providing new credit support
- restrictions on examination and approval of new investment projects
- restrictions on approval of new land for use by the enterprise
- restrictions on issuing of new, and cancelling of existing, production licenses.

According to reports, the GOC Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments. More implicit enforcement mechanisms are reflected by the regulatory powers of bodies, such as the Ministry of Industry and Information Technology. It is the commission's understanding that such bodies maintain lists of companies that are deemed to be either

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59 Platts, 2016. Global Market Outlook, Steel Business Briefing. June 2016, p.11.
60 Reuters, 2019, 'China Baowu Steel to take majority stake in rival Magang'.
61 Platts, 2016. Global Market Outlook, Steel Business Briefing. April 2016 p.16.
62 Duke Centre, *op cit* (172), p.29.
63 National Development and Reform commission.
64 [*Notice of the State Council on Further Strengthening the Elimination of Backward Production Capacities*] State Council (China), Notice no. 7, 6 April 2010 ('GOC Guidelines').

compliant or non compliant with national standards on production, environmental protection, energy efficiency and safety. Those deemed non-compliant are to be closed.[65]

It is the commission's view that the effectiviness of the above mentioned mechanisms are reflected in the responsiviness of industry groups and major companies to the GOC's various directives.

China adopted its 13th *Five-Year Plan for National Economic and Social Development* (the Plan) on 15 March 2016. The Plan outlines China's goals, principles and targets for infrastructure, the environment, financial services, health and social and economic development for the 5 years to 2020. The Plan has a strong emphasis on supply-side structural reform that promotes the upgrade of industrial structures, strengthening market-oriented reforms, reducing industrial capacity, inventory, financial leverage and costs, and correcting structural shortcomings.[66] The Plan remained current in the review period.

To support the Chinese steel industry's development in line with the Plan, the *Iron and Steel Industry Adjustment and Upgrade Plan* (2016-2020) (the Upgrade Plan) was developed. The Upgrade Plan proposed to raise the average annual growth rate of industrial added value from 5.4% in 2015 to 6% by 2020, raise the capacity utilisation rate from 70% in 2015 to 80% by 2020, and raise the industrial concentration in top ten producers from 34.2% in 2015 to 60% by 2020.[67] Examples of the Chinese steel industry's response to these directives was reflected in the restructuring of the BAOWU Steel Group. In 2019, BAOWU Steel Group was the largest producer of crude steel in China and the second largest worldwide.[68]

There have been a number of GOC policies, plans and initiatives relevant to the China steel industry published within the last 20 years, including the *National Steel Industry Development Policy* (2005), the *Blueprint for the Adjustment and Revitalisation of the Steel Industry* (2009) and the *2011-2015 Development Plan for the Steel Industry* (2011).[69] As these plans have ended, the commission's view is that these were largely superseded by further policies and plans.

Some of the key themes and objectives of major GOC planning guidance and directives used to influence the structure of the Chinese steel industry include:

1. Steel Industry Adjustment Policy (2015 Revision)
    - upgrading product mix
    - rationalising steel production capacity
    - adjustments to improving organisational structures
    - energy conservation, emission reductions, environmental protection

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[65] Office of the Chief Economist, Department of Industry, Innovation and Science, Resources and Energy Quarterly (December 2015), p. 47.
[66] KPMG, 2016. The 13th 5 Year Plan: China's Transformation and Integration with the World Economy, p.3. Sourced from GOC Opinions, State Council, 4 February 2016.
[67] King & Spalding, China Issues 13th Five Year Plan for the Steel Industry, Yan, Linga, November 22, 2016.
[68] 2020 World Steel in Figures, World Steel Association, May 2020.
[69] In noting that some of the listed documents are now dated, the commission considers that this further demonstrates long term involvement of the GOC within the Chinese steel industry.

- production distribution
- supervision and administration
- guiding market exit
- methods of orientation and oversight of mergers and reorganisations
- consolidate number of steel companies
- lift capacity utilisation rates to 80% by 2017.

2. Circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy

   - promoting of economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion
   - intensify the implementation of industrial policies related to the iron and steel sector to strengthen the examination thereof and to improve them in practice.

3. State Council Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation[70]
   - SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach
   - state-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programmes, to strengthen their operations, and allow non-state-owned capital to play a role, while ensuring the state-owned capital's leading position
   - related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, non-ferrous metal, shipping, construction materials, tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.

4. The Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)
   - removal of 100 to 150 million tonnes of capacity between 2016 and 2020
   - raising of capacity utilisation rates to 80% by 2020
   - further industry consolidation leading to 10 largest producers accounting for 60% of production by 2020.

5. Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries (2013)[71]

6. Three-Year Action Plan to Win the Blue Sky War (2018–2020, published 2018)[72]

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[70] *General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring*] State Council on Promoting Central Enterprises (China), Notice no. 56, 26 July 2016 http://www.gov.cn/zhengce/content/2016-07/26/content_5095050.htm

[71] *Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries*] Ministry of Industry and Information Technology (China), Notice no. 16, 22 January 2013 http://www.gov.cn/zwgk/2013-01/22/content_2317600.htm

[72] *Three-Year Action Plan to Win the Blue Sky War*] State Council (China), Notice no. 22, 27 June 2018 http://www.gov.cn/zhengce/content/2018-07/03/content_5303158.htm

In addition, broader industrial restructuring and reorganising directives of the GOC have an impact on the Chinese steel industry.[73]

In assessing the relevance of these planning guidelines and directives, the commission notes the importance of the GOC's national 5-year plans which provide the overarching framework for the industry and local government plans. Regarding industry specific planning guidelines and directives, the commission notes, but does not agree with, the GOC's previously expressed view that they are for guidance and are not enforceable.[74] Mechanisms through which the commission considers the GOC is able to enforce these guidelines and directives include the presence and role of SOEs within the broader steel industry, the role of the NDRC and explicit enforcement mechanisms. The GOC, where it is also the majority owner of an SOE, can exert its influence through the appointment of board directors and chief executives.[75]

SOEs' significant share of total Chinese steel production, and propensity to follow government guidance and directives, ensures that the GOC is able to influence broader trends in industry capacity and steel production. Similarly, the NDRC, through its dual role of developing planning guidelines and directives and approving large scale investment projects, has the capacity to ensure that the broader objectives of the central government are implemented. Explicit enforcement mechanisms detailed within directives, such as the State Council notice on *Further Strengthening the Elimination of Backward Production Capabilities and Guidelines*, includes a range of sanctions, such as revocation of pollutant discharge permits, restrictions on the provision of new credit support, restrictions on the approval of new investment projects, and restrictions on the issuing of new and cancelling of existing production licenses.[76]

A further example of the GOC's use of planning guidelines and policy directives to achieve its objective can be seen in the GOC's *Standard Conditions of Production and Operation of the Iron and Steel Industry*. It is the commission's understanding that this document sets out the minimum requirements for production and operation in the Chinese steel industry. Firms are incentivised to comply with the standard conditions, as doing so provides the basis for policy support. In contrast, firms that do not conform are required to reform, and if they still fail to conform, must gradually exit the market.[77]

A4.5 Role and operation of SOEs

It has been observed that:

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[73] For example, Notice of Several Opinions on Curbing Overcapacities and Redundant Constructions in Certain Industries and Guiding the Healthy Development of Industries (2009), Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013), Guiding Opinions on Resolving Serious Excess Capacity Contradictions (2013) and Directory Catalogue on Readjustment of Industrial Structure (2013 Amendment).
[74] *International Trade Remedies Branch Report No. 177* (REP 177), p.123 refers.
[75] Dong Zhang and Owen Freestone, *China's Unfinished State-Owned Enterprise Reforms* (2013), Economic Roundup, The Treasury, Australian Government, issue 2, pp. 79-102.
[76] REP 177, p.128 refers.
[77] Announcement on the *Standard Conditions of Production and Operation of the Iron and Steel Industry*. Included in the context of REP 177 on the EPR for that case.

> *[SOEs] are an organic component of China's political and economic governance, although their contribution to the national output has shrunk to 40%. They are still considered to be substantial building blocks of the economy and act as a buffer against internal shocks and external threats.*[78]

The Chinese economy is commonly described as a 'socialist market economy' as it features dominant SOEs co-existing with market capitalism and private enterprise.[79] Commentary provided with the 2019 Fortune 500 list indicates that of the 129 Chinese companies listed that year, SOEs accounted for 80% of the revenue earned, an increase of 4% on the previous year.[80]

Between 2010 and 2015, SOEs accounted for 44% of total Chinese steel production.[81] However this may have been as high as 60%.[82]

The World Bank has found that 'state enterprises have close connections with the Chinese government. SOEs are more likely to enjoy preferential access to bank finance and other important inputs, privileged access to business opportunities, and even protection against competition'.[83]

While the commission does not consider that the presence of these entities alone causes market distortions, it does consider that the presence of these entities is likely to result in adherence with the GOC's plans and directives. The commission also considers that the support provided to these entities by the GOC has enabled many of them to be operated on non-commercial terms for extended periods, significantly impacting supply and pricing conditions within the domestic Chinese market.[84]

Examples of these support mechanisms include government subsidies, support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees) and loans from state-owned banks.[85]

The commission considers these mechanisms have supported the rapid expansion of steel production capacity in the SOE segment, in spite of repeated attempts by the Central Government to reduce the scale of steel production. It is also the commission's view that these support mechanisms have created rigidities in the way recipient firms respond to price and profit signals and hence have significantly contributed to the excessive investment in capacity, excess steel production and distorted prices.

The significance of SOEs to the broader Chinese economy, including the steel industry, is also reflected in the State Council of China's *Guidance on the Promotion of Central*

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78 Amir Guluzade, published on the World Economic Forum website, *How reforms have made China's state owned enterprises stronger* (21 May 2020).

79 Asialink Business, Overview of China's economy, accessed 21 July 2020.

80 https://fortune.com/2019/07/27/ceo-daily-july-27-sino-saturday/.

81 Liu. H & Song. L, 2016, p.349.

82 Platts Steel Business Briefing (Platts), *Global Market Outlook*, January 2016, p.14.

83 World Bank, China 2030: Building a Modern, Harmonious, and Creative Society, Report No. 96299 (March 2013), p.25.

84 Anti-Dumping Commission, Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission August 2016 (Commissioner's Steel Report), p.47.

85 Liu. H & Song. L, 2016, p.348.

Enterprises Restructuring and Reorganisation (the Guidance).[86] In introducing the Guidance, the State Council notes the important role of SOEs in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The Guidance also indicates that the State Council will deepen reform of SOE policies and arrangements to optimise state owned capacity allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation include the 'safeguard measures' theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures more generally.

In 2019, the GOC announced its intention to introduce a 3-year action plan on SOE reform, which reflects the continuation of the significance of SOEs to the Chinese economy.[87] The plan is designed to target mixed-ownership reform and strategic restructuring in sectors including coal and electricity, steel and non-ferrous metal. In recent years SOE reform has focussed on consolidation through mergers and acquisitions, which has (arguably) increased the state's presence in the market.[88]

The commission considers that in combination with slow, incremental policy reform and the GOC's economic and fiscal stimulus packages, the role of SOEs in general, involved in '…capital intensive sectors that produce intermediate but highly tradable goods with important linkages to other upstream and downstream economic activities, such as the mining, chemicals or even electronics sectors…'[89] provides a buffer to the Chinese steel industry from external market forces. Those SOEs '…operating in upstream sectors… provide inputs to steel companies at below-market prices and in preferable terms. The same applies to downstream [SOE] companies buying steel products at above-market rates, thus providing support to steel companies. In addition, several concerns relate to the functioning of the financial sector in the presence of [SOEs]'.[90]

A4.6 The role of the GOC in private firms

In addition, the commission understands that whilst not expressly compulsory under law, private firms engage with the policies and objectives of the GOC by aligning their commercial interests with industry directives and where relevant, appointing party members on supervisory boards.

A4.7 Direct and indirect financial support

Examples of specific support programs provided to Chinese steel producers by the GOC, as identified by the American Iron and Steel Institute and the Steel Manufacturers Association, include preferential loans and directed credit, equity infusions and/or debt-to equity swaps, access to land at little or no cost, government mandated mergers (permitting acquisition at little or no cost) and direct cash grants for specific steel

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86 The State Council, notice advising the issuing of the guideline on reorganization of SOEs (July 2016).

87 The State Council, notice urging SOEs to increase profitability and deepen reform (July 2020).

88 Hong, Y (2019), 'Reform of State-owned Enterprises in China: The Chinese Communist Party Strikes Back', *Asian Studies Review*, pp.332-351.

89 OECD Steel Committee, *State Enterprises in the Steel Sector* (20 December 2018), p.5.

90 OECD Steel Committee, *State Enterprises in the Steel Sector* (20 December 2018), p.8.

construction projects.[91] Similar programs have been previously identified by the commission in respect of the Chinese steel industry. It is the commission's view that these programs have directly contributed to conditions within the Chinese steel industry during the investigation period by providing direct financial support to recipient steel producers.

The commission notes that countervailable subsidies have been received by exporters from China (see REP 553). These subsidies and tax concessions reduce the operating costs of Chinese steel enterprises, confer a competitive advantage through the ability to offer steel products at lower prices and increase the profitability of steel production.[92] Although subsidies affect specific exporters differently based on the level of subsidy they receive, subsidisation supports unprofitable producers, delaying or preventing their timely exit from the industry. These industry-wide effects are broader than the recipient-specific subsidisation that is the subject of countervailing duties.

A4.8 Taxation arrangements

The commission has previously identified evidence of export taxes and export quotas on a number of key inputs in the steel making process including coking coal, coke, iron ore and scrap steel in *Anti-Dumping Commission Report No. 198*.[93] The commission found that these measures would keep input prices artificially low and create significant incentives for exporters to redirect these products into the domestic market, increasing domestic supply and reducing domestic prices to a level below what would have prevailed under normal competitive market conditions.

The GOC has traditionally operated, amongst other taxation arrangements, a VAT and a VAT rebate system for certain exported goods which has undergone incremental change. In 2018 and 2019, the GOC implemented a further series of VAT reforms, which included lowering the VAT rates paid, as described in the table below.

	Tier 1 VAT rate payable	Tier 2 VAT rate payable	Tier 3 VAT rate payable	Tier 4 VAT rate payable
Pre-1 July 2017	17%	13%	11%	6%
1 July 2017	17%	11%	6%	*Tier 4 revoked*
1 May 2018	16%	10%	6%	
1 April 2019	13%	9%		

Table 5 – VAT rate reform in China 2017 to 2019[94]

The relevant VAT for painted steel strapping during the investigation period was 13%.

Under the Chinese VAT system, VAT is paid on consumption of goods, including the inputs used in the production of steel. For goods produced and sold within China, the tax

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[91] Duke Centre, *op cit* (172), p.25.

[92] Commissioner's Steel Report, at www.adcommission.gov.au p.45.

[93] Concerning hot rolled plate steel exported from China, the Republic of Indonesia, Japan, the Republic of Korea and Taiwan; pp. 41-43.

[94] https://www.oecd.org/tax/consumption/status-of-the-vat-reform-in-the-peoples-republic-of-china-2018.pdf - 2019 rates verified for the goods in the investigation period.

is ultimately paid by the final consumers of the particular good '…and successive tax payers are allowed to deduct the VAT they pay on their purchases while they account for VAT they collect on the "value added"'.[95] Because it is difficult for exporters to pass on the input VAT tax to export customers, eligible steel exporters have traditionally been compensated for input VAT paid during the production process via the payment of VAT rebates.

Through altering the VAT rebates and taxes applied to steel exports, the GOC is able to alter the relative profitability of different types of steel exports compared to domestic sales. For example, by either reducing VAT rebates or increasing export taxes on steel exports, the GOC is able to reduce the relative profitability of exports to domestic sales and hence provide significant incentives for traditional exporters to redirect their product into the domestic Chinese market. By using these mechanisms to alter the relative supply of particular steel products in the domestic market, the GOC is also able to influence the domestic price for those products.

During the investigation period, the applicable VAT rebate rates for exports of the goods was 10% from 1 April 2019 until 22 March 2020, where it increased to 13%.

These changes, along with changes to the domestic VAT rate, resulted in applied VAT rates for exports of painted steel strapping of 3% for all of the investigation period, except for the final 9 days, where it was 0%. No export tariffs were payable on the goods, which when combined with the reduction in actual VAT paid on painted steel strapping exporters, would create a further incentive for export.[96]

A5 Competition in Chinese steel markets

One of the important features of the Chinese steel market is the lack of import competition such that price setting and competition in the domestic market is predominantly, if not solely, influenced by domestic firms.

The May 2020 US International Trade Administration (USITA) Global Steel Trade Monitor Report highlights that steel production in China is driven by its domestic demand and consumption, such that import penetration (as a function of consumption) in steel has remained low, at 1.6% in 2018 and 2019. The figure below shows the USITA analysis.

[95] https://www.oecd.org/tax/consumption/status-of-the-vat-reform-in-the-peoples-republic-of-china-2018.pdf.
[96] GOC RGQ, Attachment D6 – Schedule of rates, EPR item 10.

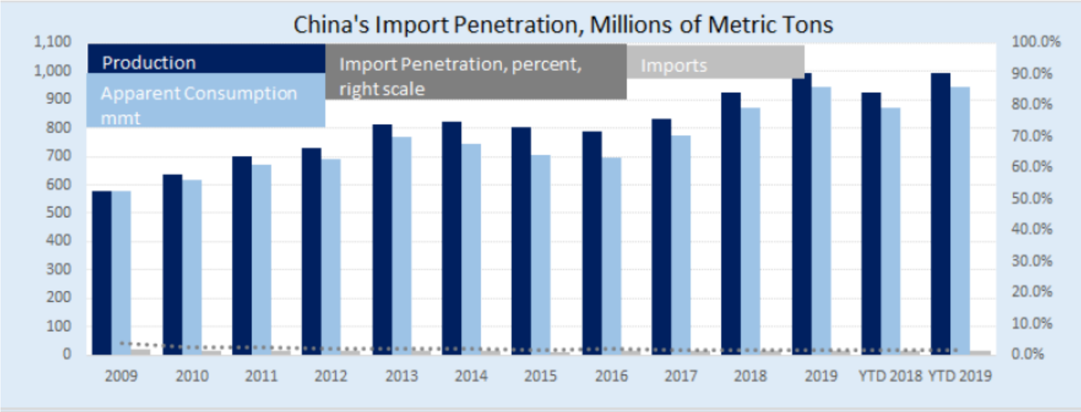

Figure 1 – Steel imports in China[97]

Conversely, China's exports of steel represent approximately 62 million tonnes in 2019 or about 6% of its production.[98]

The commission considers the GOC's involvement and influence over the steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry and the HRC/CRC and painted steel strapping markets. The issuance of planning guidelines and directives along with provisions of direct and indirect financial support[99, 100] creates a domestic market that benefits domestic producers and supports inefficient enterprises, but does not support access and therefore competition from foreign producers.

The commission acknowledges that China's supply side structural reform targets the structure of production, to make it more efficient and to balance the supply side of China's economy with the demand side.[101] It is a '…suite of policies focus[ing] on reducing distortions in the supply side of the [Chinese] economy and upgrading the industrial sector'.[102] China's steel industry has been a key focus of these policy reforms.

In short, the Chinese steel market is constructed such that preferential treatments, whether focused at SOEs or not, creates a situation of '…competition for factors of production…'[103] rather than market driven competition based on price, service and value.

The commission therefore considers that the GOC's historic and continued involvement in the Chinese steel industry, through its policies, planning guidelines, plans and directives, materially contributed to its steel industry's overcapacity, oversupply and distorted structure during the investigation period. It is the commission's view that these features

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97 United States International Trade Administration, *Global Steel Trade Monitor, Steel Imports Report: China*, May 2020.
98 United States International Trade Administration, *Global Steel Trade Monitor, Steel Exports Report: China*, May 2020.
99 Support measures include stimulus programs, land and energy subsidies and soft lending policies.
100 Duke Centre, *op cit* (172), p.24.
101 https://www.rba.gov.au/publications/bulletin/2018/dec/chinas-supply-side-structural-reform.html
102 https://www.rba.gov.au/publications/bulletin/2018/dec/chinas-supply-side-structural-reform.html
103 Dong Zhang and Owen Freestone, *China's Unfinished State-Owned Enterprise Reforms* (2013), Economic Roundup, The Treasury, Australian Government, issue 2, pages 79-102, December; at p.91

have also limited foreign competition. When considered together, the state of affairs created by the GOC significantly affected the dynamics and price setting in the domestic market.

A6 GOC influence on the Chinese painted steel strapping market

The commission has found in the preceding section that the GOC exerts significant influence over the Chinese steel market. This section assesses the effect of that influence on HRC and CRC prices in China[104] and therefore on the cost of the primary steel input feed in the manufacture of the goods by Chinese producers.

A6.1 Significance of HRC costs in the production of the goods

The commission has found that HRC and CRC are the major raw material inputs used in the production of painted steel strapping.

CRC is made from HRC that has undergone further processing through rolling at low temperatures (generally room temperature). The process affects the performance and application properties of the coil, but not its specifications or grade. There is no additional material input other than HRC in the production of CRC, with CRC retaining the same metallurgical composition as its HRC input. The commission considers that CRC costs, while generally higher than HRC due to the additional processing, closely relate to the costs of HRC and are impacted to the same extent as HRC by any influence on the HRC market.

The commission has verified the HRC and CRC costs associated with the production of the goods and like goods during the investigation period for all producers. The commission found that coil costs (whether hot or cold rolled) represented a significant and broadly consistent proportion of the CTM of the goods and like goods. This is depicted in the table below.

Country of production	Percentage of total CTM made up by HRC/CRC	Percentage of raw material costs made up by HRC/CRC
Australia	70%	100%
China	90%	99%
Vietnam	83%	95%

Table 6 – Raw material coil as a proportion of CTM of the goods[105]

The proportion of CTM represented by raw material costs for Australian producers is lower than that for Chinese and Vietnamese producers primarily due to higher manufacturing overheads. The higher proportion of CTM represented by raw material costs for Chinese producers (Jiashilun) is also partly explained by it using CRC as the raw material input which involves additional processing, as explained above.

104 As noted in chapter 6.3.4, the commission considers that CRC costs are closely related to the costs of HRC and are impacted to the same extent as HRC by any influence on the HRC market.
105 Confidential Attachment 1 – CTM breakdown.

Cooperating exporters from both China and Vietnam advised the commission that raw material prices are influential in setting selling prices for the goods and like goods, with lower raw material prices resulting in lower painted steel strapping prices.

Given the high cost proportion of HRC/CRC in the production of the goods and like goods and its influence on pricing decisions, the commission considers that HRC/CRC price has a significant impact on both the production cost and selling price of the goods and like goods.

A6.2 Comparison of raw material prices

As a result of previous cases and after considering the evidence before it for this investigation, the commission considers that normal competitive market conditions absent a particular market situation prevail in the Korean and Taiwanese domestic markets for HRC (and hence CRC) and that purchases of HRC in these markets are not influenced by prices in China.[106] The commission therefore considers that purchases of HRC and CRC in these markets are suitable for comparison with purchases of HRC and CRC in China to quantify the effect of the particular market situation on Chinese prices during the investigation period.

The commission notes that Jiashilun, the sole cooperating Chinese exporter, sourced CRC solely from Chinese steel mills.

In its analysis, the commission has compared, on a monthly basis:

- weighted average CRC prices which Chinese exporters of the goods paid in the investigation period (EXW, no delivery, excluding VAT) with the Chinese benchmark for CRC as reported by MEPS International (MEPS)[107]
- the Chinese CRC MEPS benchmark with the CRC MEPS benchmarks for Korea and Taiwan
- the Chinese HRC MEPS benchmark with the HRC MEPS benchmarks for Korea and Taiwan.

As all pricing data used by the commission in its analysis was reported in the relevant local currency, the commission has converted and compared prices in USD. The commission performed a currency fluctuation analysis as part of this process to examine whether any such fluctuations may have distorted its price comparisons.

As the currency conversion has been made on an average monthly exchange rate, the commission has not undertaken an assessment for short-term (i.e. on a daily basis) currency fluctuations. However, the commission has assessed whether there has been a sustained currency fluctuation experienced between the USD and any of the local currencies used. The figure below depicts monthly movements in the exchange rate for each of the relevant currencies to the USD.

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[106] See SEF 529 available on the commission's website.

[107] MEPS prices for HRC and CRC are reported EXW for China and EXW delivered for Japan, Korea and Taiwan. Where direct comparisons have been made, adjustments have been made for delivery costs. MEPS is an international independent supplier of steel market data and information. The commission has a subscription service with MEPS for the provision of such data.

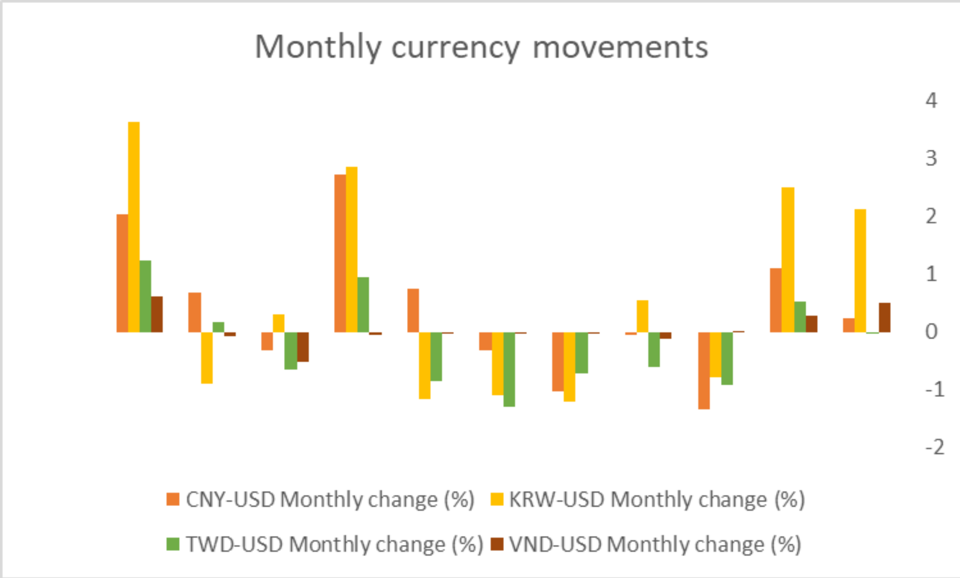

Figure 2 – Monthly currency movements to the USD

The currency with the greatest monthly movement against the USD is the Korean won (KRW). However, the largest monthly movement in the KRW-USD exchange rate is less than 4%, with no cumulative movement of greater than 5% over any two consecutive months. The commission considers a fluctuation equal to or greater than 5% over an 8 week period to constitute a sustained currency movement. Accordingly, as there appears to have been no sustained currency fluctuation over the investigation period, the commission is satisfied there a USD comparison between prices will provide ac result undistorted by currency movements.

The figure below depicts the monthly price of CRC over the investigation period as reported by MEPS for China, Korea and Taiwan and the price paid by cooperating Chinese producers of the goods. The prices have been adjusted to be at EWX including any delivery costs.

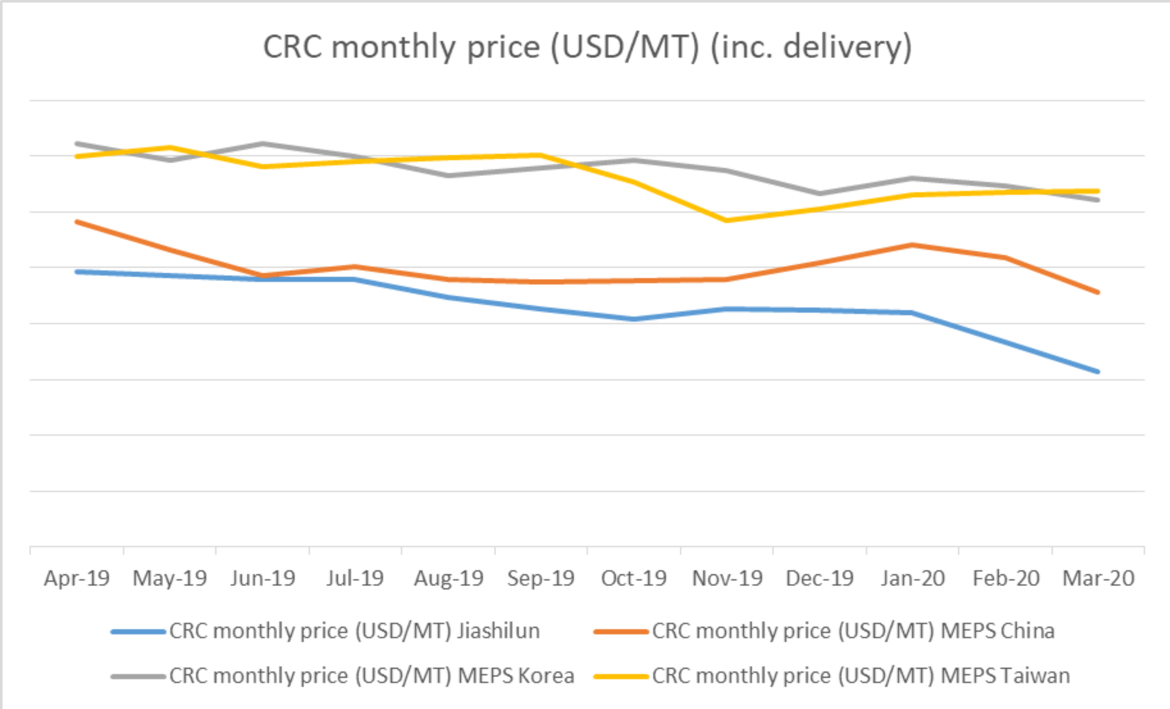

Figure 3 – CRC prices – EXW, inc. delivery in USD/MT

The figure shows that CRC prices in China, whether purchased by the cooperating Chinese producers or reported in the MEPS data, are substantially lower than equivalent prices for CRC purchased in Korea and Taiwan. The commission considers that CRC prices in China, Korea and Taiwan all appear to follow a similar price trend. The commission considers that the difference between prices represents, to a not insignificant degree, the GOC influences and distortions on CRC prices in the Chinese domestic market.

The commission's raw material input analysis is provided at **Confidential Attachment 3.**

A6.3 GOC submissions to the SEF

The arguments of the GOC in respect of the market situation are set out in chapter 5.3.6. It is implicit in the arguments that the GOC's position is that lower HRC/CRC prices, the primary inputs in painted steel strapping, are due solely to competitive market factors in China. In other words, the GOC considers that lower input prices are not caused by government influence and therefore there is no particular market situation in respect of the like goods, being painted steel strapping. The GOC does not present evidence to support its arguments nor is such evidence provided by the cooperating exporter. This limits the commission's assessment of the GOC's arguments to the evidence before it.

To the extent that the GOC's arguments on competitive market factors concern the production of painted steel strapping and not HRC/CRC inputs, those competitive market factors are taken into account in the normal value calculation, which relies on Jiashilun's records for these costs.

To the extent the arguments relate to international commodity prices, such as those for iron ore, those international commodities are used as inputs in all steel markets including Korea and Taiwan. There is no evidence that such costs are different in China and, therefore, there is no evidence they impact the assessment of the Chinese market situation.

To the extent that the arguments relate to competitive market factors related to HRC/CRC production, the GOC makes assertions but provides no evidence to establish that such advantages exist compared to Korea and Taiwan. Moreover, central to the GOC's argument, there is no evidence that these competitive market factors account for the full amount of the lower HRC/CRC prices and, therefore, the prices of painted steel strapping. The commission acknowledges the GOC's argument that the Chinese market for painted steel strapping consists of a number of participants that compete with each other. This supports the commission's conclusion that the lower HRC/CRC prices are reflected in the price of painted steel strapping.

Based on the foregoing and on the evidence before it, the commission concludes that the market situation is linked to lower HRC/CRC prices. The effect of the lower HRC/CRC prices are not insignificant and, therefore, cause lower prices for painted steel strapping that is also not insignificant.

A7 Conclusion

In light of all the information before the commission, including submissions received in respect of the SEF, it is the commission's view that a particular market situation existed in respect of the domestic market for painted steel strapping in China for the investigation period which may result in domestic sales in China being found not suitable for determining a normal value for Jiashilun under section 269TAC(1).

Whether the particular market situation in respect of the domestic market for painted steel strapping in China has resulted in Chinese domestic sales being not suitable for determining Jiashilun's normal value under section 269TAC(1) is discussed in **Non-confidential Appendix B**.

APPENDIX B PROPER COMPARISON OF DOMESTIC AND EXPORT PRICES

B1 Introduction

Where a particular market situation is found, pursuant to section 269TAC(2)(a)(ii), the commission must also consider whether, because of the situation in the market of the country of export, sales of like goods in that market are not suitable for determining a price under section 269TAC(1).

As a particular market situation has been found in respect of the domestic market for painted steel strapping in China for the investigation period, the commission has examined whether goods in that market are suitable for determining Jiashilun's normal value under section 269TAC(1).

B2 Approach to proper comparison

In order to assess whether sales are suitable for the purposes of section 269TAC(1), the commission's approach to assessing proper comparison considers the relative effect of the particular market situation on both domestic sales and Australian export sales. If there is a finding that the particular market situation does not equally affect domestic sales and export sales, such a finding may render domestic sales not suitable for the purposes of section 269TAC(1).

The commission considers this approach consistent with Australia's obligations under the ADA[108] and the WTO Panel's interpretation of these obligations set out in the WTO Panel Report *Australia – Anti-Dumping Measures on A4 Copy Paper* (DS 529).[109]

When assessing the relative effect of the particular market situation on domestic prices and export prices, the commission has compared the existing relationships between price and cost in the domestic and export markets of the exporting country. The prevailing conditions of competition in each market will define these relationships. This has involved an examination of:

1. the relationship between raw material costs and the domestic prices and Australian export prices for the goods for each relevant producer of the goods and like goods
2. the domestic market conditions (the particular market situation) leading to those costs and prices
3. export market conditions.

The commission considers that the relationship between cost, price and competition will provide insight into the effect of the particular market situation in the country of export (domestic prices) and Australian markets (export prices). In turn, it will provide insight into whether a proper comparison is permitted between domestic prices and Australian export prices.

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108 https://www.wto.org/english/docs_e/legal_e/19-adp_01_e.htm
109 https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds529_e.htm

In particular, the commission has undertaken:

- a *quantitative* assessment of prices, noting that '…a purely numerical comparison between the two prices may not reveal anything about whether the domestic price can be properly compared with the export price'[110]
- a *qualitative* assessment of prices, to '…focus on how the particular market situation affects that comparison'.[111]

This approach assesses both the effect of the particular market situation on domestic and export prices. This is because while '…a particular market situation may have an effect on both domestic and export prices, it does not follow that the impact on domestic and export prices will be the same'.[112]

B3 Examination of Australian conditions of competition

B3.1 Market structure

Chapter 4 of this report discusses the Australian market for painted steel strapping. In summary:

- Australian industry and imports from other countries supply the Australian market for painted steel strapping, selling it directly to customers or through local distributors.
- Australian industry supplies the greatest volume in Australia. The highest volume of imports come from China and Vietnam.
- Overseas producers compete directly with the Australian industry and supply the same market segments as Australian industry, with Australian produced like goods and imported goods readily substitutable.
- Customer output drives demand for painted steel strapping, primarily from steel manufacturing, timber, mining, food production, paper, wool and recycling.

The commission considers the Australian market for painted steel strapping is a competitive market, characterised by a large number of suppliers and customers engaging in commercial negotiations.

B3.2 Raw material

The major raw material used in the production of the goods in Australia is HRC, purchased from Australian suppliers.

From its previous investigations into HRC, the commission understands that price is generally the main factor which influences an Australian customer's purchase decision for HRC. Australian producers of HRC set their price based on an import benchmark pricing

[110] DS 529 – para. 7.75.
[111] DS 529 – para. 7.75.
[112] DS 529 – para. 7.76.

strategy where known import offers in the Australian market are used to determine the level at which it sets its selling price.[113]

Australian produced HRC competes with imported goods mostly at the wholesale or distribution level of trade. These customers then on-sell the HRC to end users or other resellers, predominantly in the general manufacturing and pipe and tube industry.[114]

B3.3 Import penetration in the Australian market

The commission examined the ABF import database to identify exporters and importers of painted steel strapping during the investigation period. The commission observed that during the investigation period:[115]

- the goods were exported to Australia from 7 countries by 25 unique exporters, with 12 exporters from China and 2 from Vietnam
- 31 unique importers were identified as having imported the goods
- imports accounted for 38% of sales in the Australian market
- of these imports, Chinese imports accounted for 39% of sales and Vietnamese imports 27%.

The GOC in its RGQ observed that the nature of the Australian market, with only one local manufacturer, may create an uncompetitive market, driving up prices and therefore attracting imports.

While the observation that there is only one domestic manufacturer of the goods in Australia is accurate, the commission does not agree that the Australian market is uncompetitive. The presence of a number of importers with material import volumes from numerous countries indicates to the commission that the Australian market for painted steel strapping can be characterised as having a high level of import penetration contributing to a competitive market for the goods between participants.

B4 Examination of Chinese conditions of competition

B4.1 Market structure

The commission sent the GOC a questionnaire at the beginning of the investigation requesting information, among other things, in relation to the painted steel strapping market in China. The GOC's RGQ was provided to the commission on 15 August 2020[116] which the commission considered as part of this investigation.

In its RGQ, the GOC submitted that painted steel strapping is a relatively new product in the Chinese market, widely used in construction, shipbuilding, automotive manufacturing, white goods and electric appliances sectors.

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[113] REP 400, chapter 4.3.2.
[114] REP 400, chapter 4.3.
[115] Confidential Attachment 2 – Australian Market Analysis.
[116] EPR 553, Item 10.

Questionnaire responses from the GOC and Jiashilun indicated pricing for painted steel strapping industry is unregulated. Prices are set in the market in commercial transactions between buyers and sellers resulting in competitive market prices.

On the information available to it, the commission is satisfied there is a large number of participants engaging in commercial negotiations for the sale and purchase of painted steel strapping, which is indicative of competition, albeit where a particular market situation affects all participants.

B4.2 Raw material

The GOC submitted that Chinese producers of the goods used raw materials sourced from both local and foreign suppliers. However, from the data provided to the commission during verification, the major raw material used in the production of the goods in China is CRC, purchased from Chinese suppliers.

The GOC submitted prices for HRC (and accordingly CRC) are unregulated. Prices are set in the market through commercial transactions between buyers and sellers and result in competitive prices.

While the commission has found a particular market situation in respect of the Chinese market for the goods, the commission is satisfied that, like the market for painted steel strapping, there is a large volume of participants who engage in commercial negotiations in the sale and purchase of HRC and CRC. This is indicative of competition, albeit impacted by government distortions.

The commission examined the monthly CRC price paid by Jiashilun with the monthly Chinese CRC MEPS benchmark and the CRC MEPS benchmarks for Korea and Taiwan. The commission also compared the monthly HRC MEPS benchmark for China, Korea and Taiwan.

The commission was unable to directly compare the raw material costs paid by Jiashilun with that of Australian industry (as the data for Jiashilun available to the commission is only for CRC, whereas the data for Australian industry is only for HRC). However, the commission was able to analyse patterns in CRC prices paid by Jiashilun and CRC MEPS benchmark prices for China, Korea and Taiwan. The commission also analysed pricing patterns in the HRC MEPS benchmark prices for China, Korea and Taiwan. From these datasets, the commission has observed that in relation to the investigation period:

- there are only minor differences between CRC and HRC benchmark prices in Korea compared to CRC and HRC benchmark prices in Taiwan (in other words, Korean and Taiwanese prices are largely the same)
- Chinese benchmark prices for both CRC and HRC are lower at all times than the Korean and Taiwan benchmark
- Jiashilun CRC prices are the same or lower than the Chinese CRC benchmark price.

The commission has compared the Chinese HRC benchmark price with the HRC price paid by Australian industry and found that Chinese HRC is well below Australian prices throughout the investigation period.

As part of its RGQ, the GOC rejected the assertion that raw material costs for the goods are artificially low. It submitted that the Chinese steel market is the most competitive in the world with more participants than any other counties and that purchases of raw materials are competitive and based on market conditions. The Chinese domestic market consumes most Chinese steel production. However, the GOC claims that China is a significant steel importer and a net importer of both HRC and CRC.

Based on the information available to the commission, the commission agrees with the GOC that the Chinese domestic market for CRC and HRC consists of a number of producers that compete with each other. However, the commission disagrees that prices are not lower than what they otherwise would be, absent the particular market situation caused by the GOC influence. The commission is satisfied the evidence from the verification of the cooperative exporter's raw material costs and MEPS data indicates Chinese manufacturers have access to lower priced raw material inputs relative to Korean, Taiwanese and Australian manufacturers. The commission considers the Chinese domestic market conditions lead to lower prices for HRC and CRC due to the distortions in the Chinese market, as discussed in **Non-confidential Appendix A**.

The commission's raw material input analysis is at **Confidential Attachment 3.**

B4.3 Import penetration in the Chinese market

The GOC provided confidential information in its RGQ regarding the degree of import penetration into the Chinese market. A significant majority of painted steel strapping manufactured in China was sold domestically, with a small amount exported and a negligible amount of imports.

The GOC advised there are a large number of producers of the goods within China, with a low barrier for entry into the market. This includes foreign companies. However, the examples of foreign companies identified by the GOC did not import the goods but had manufacturing facilities within China.

From the information provided by the GOC, the commission has determined that the size of the Chinese market for the goods is significantly larger than the Australian market.

The commission examined the ABF import database and noted that 12 Chinese manufacturers exported to Australia during the investigation period. This is more than any other country. Given the relative size of Australia's customer base compared to China's, the commission considers the number of Chinese manufacturers supplying the Australian market would represent only a small portion of all Chinese manufacturers. The commission also noted from the information provided by the cooperating exporter that it maintains excess production capacity.

The commission considers that, due to the number of Chinese producers supplying the Chinese market, and based on the low cost of raw material inputs available to those producers, relative to comparable international benchmarks absent of a particular market situation, there would appear to be a competitive disadvantage in respect of the importation of painted steel strapping into China.

Evidence provided in the May 2020 US International Trade Administration Global Steel Trade Monitor Report also indicates import penetration (as a function of consumption) in steel (which would include the goods) has remained low, at 1.6% in 2018 and 2019.[117]

Accordingly, based on the information before the commission, albeit limited, it appears on balance that import penetration in the Chinese market for the goods was low in the investigation period, relative to the Australian market.

B5 Relationship between price and cost – China

The commission considers that Chinese producers supplying painted steel strapping to the Chinese domestic market operate under unique market conditions that differ from those in other countries, including in Australia. Specifically, the particular market situation in China reduces costs across all production due to lower raw material costs.

From analysis of the cooperative exporter's records, the commission found that raw material costs affected the CTM for both domestic and exported goods equally. During verification, the commission found that the cooperating Chinese exporter used the same facilities, raw material inputs and manufacturing processes to manufacture painted steel strapping sold into the Chinese domestic market as that exported to Australia, with raw materials accounting for the majority of the total CTM.[118]

The commission compared the CTM of painted steel strapping produced for sale on the domestic market by the cooperating exporter against the CTM of painted steel strapping produced for export to the Australian market. The commission observed there was no difference in the CTM between goods produced for domestic consumption and those produced for export to Australia.

Chinese domestic prices

The commission was unable to compare domestic selling prices for the goods across different Chinese manufacturers due to a lack of cooperating responses. Nonetheless, from the evidence before it from the questionnaire responses, the commission is satisfied the Chinese domestic market for painted steel strapping consists of a number of participants that compete with each other. As a result of this environment for the goods, the lower raw material costs attributable to the particular market situation directly affect painted steel strapping prices, such that the prices are lower than they would otherwise have been.

This relationship defines the conditions of competition in China. The effect of the particular market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between domestic producers selling in the domestic market as it modifies the conditions of competition in a consistent manner for all market participants.

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117 United States International Trade Administration, *Global Steel Trade Monitor, Steel Imports Report: China*, May 2020.

118 See **Error! Reference source not found.**.

Therefore, the commission considers that Chinese producers have little flexibility with respect to price setting for sales of painted steel strapping in their domestic market.

Chinese export prices

Due to the lack of data provided by Chinese manufacturers on Australian export prices, the commission has relied upon import prices available from the ABF import database to undertake its analysis of the relationship between raw material costs and export prices.[119]

The figure below depicts the range of Australian import prices from all Chinese exporters of painted steel strapping during the investigation period.

Figure 4 – Anonymised Chinese import prices of the goods into Australia, weighted average unit price over the investigation period[120]

The figure indicates a variability in pricing by Chinese manufacturers in the Australian market.

The commission has also compared the weighted average FOB Chinese export prices for each exporter as reported in the ABF import database with those from Vietnam, Korea, Germany and Malaysia, who represent the second, third, fourth and fifth largest source of imports of painted steel strapping into Australia. The weighted average FOB export price of the cooperating exporter has also been included in the comparison.

[119] See chapter 4.5 for the commission treatment of ABF import data.
[120] Confidential Attachment 2 – Australian Market Analysis.

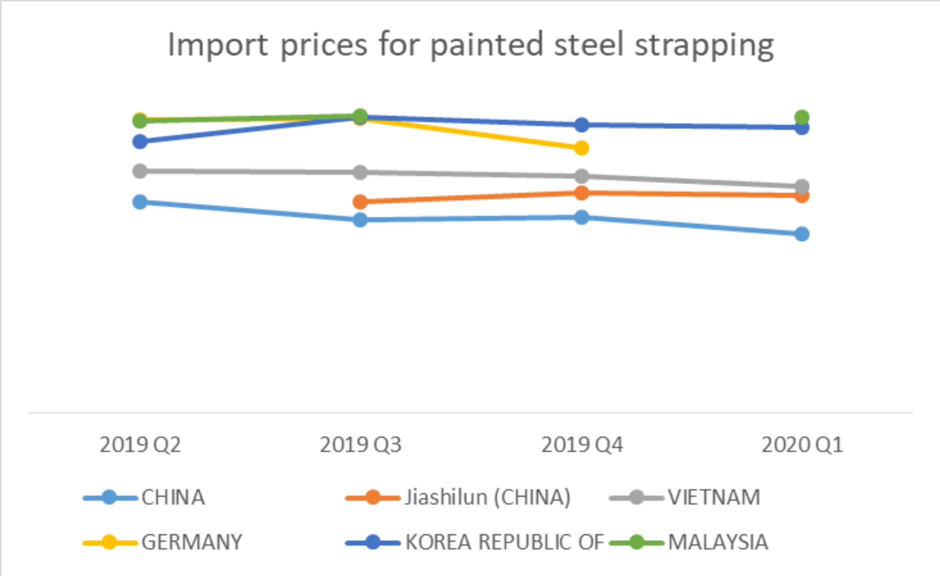

Figure 5 – FOB import prices for painted steel strapping imported into Australia during the Investigation period[121]

The commission observed that the weighted average FOB export prices of Chinese exporters to Australia (including the cooperating exporter) was lower than those of Germany, Malaysia and Korea exporters to Australia in each quarter of the investigation period. This finding provides evidence that the distortions in the Chinese raw material market enabled Chinese manufacturers to undercut other participants in the Australian market, in addition to undercutting the Australian industry.

Based on the above analysis, the commission considers that:

- there is a market which is internally competitive between domestic participants in China where no competitive advantage is derived by any individual manufacturer as the reduced production costs resulting from the situation in the market benefits all producers
- the Australian market is a competitive market. The commission considers variability of pricing between Chinese manufacturers supplying to the Australian market is indicative of a competitive advantage attributable to the particular market situation, which allows Chinese exporters to engage in pricing strategies in the Australian market which achieve either:
    - higher margins than the margins attainable on the sale of the same goods on the domestic market
    - increased sales volumes by significantly undercutting other participants in the Australian market
    - a combination of higher margins and increased sales volumes resulting from undercutting.

B6 Arguments of the GOC

The arguments of the GOC in respect of the proper comparison of domestic and export prices are set out and addressed in section 5.3.7. To the extent that those arguments

[121] Ibid.

concern the comparative costs of Chinese producers, they are addressed above in the context of the market situation.

B7 Conclusion

The commission’s analysis indicates that the relationship between price and cost and the prevailing conditions of competition in China is different in comparison to the relationship between price and cost and the prevailing conditions of competition in Australia. Specifically, the effect of the particular market situation in China is a decrease in input costs across all production that results in a lower level of competitive pricing throughout the market in China. This relationship defines the conditions of competition in China.

Based on the information before the commission, on balance, the effect of the particular market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between market participants, being Chinese producers. In other words, while there may be competition between Chinese producers based on manufacturing efficiencies and other factors (no evidence of which was presented to the commission during the investigation), the particular market situation nonetheless modifies the conditions of competition in a consistent manner for market participants. The commission considers this is broadly consistent with the GOC submission that the Chinese market for painted steel strapping is highly competitive and that transactions (for the goods and of raw materials) are made under competitive conditions. However, that competition between domestic market participants is impacted by the particular market situation which distorts (lowers) the level of competitive pricing.

In Australia, where no particular market situation or input cost decrease exists, competitive pricing prevails at a higher level. Higher production costs for those participants producing without the benefit of a particular market situation establishes a higher minimum threshold for competitive prices. Under these circumstances, the effect of the particular market situation in China on the price of Chinese painted steel strapping sold into the Australian market results in competitive advantages and disadvantages between market players.

Specifically, Chinese exporters enjoy a cost advantage that either manifests as an increased margin at the prevailing level of competitive pricing in the Australian market, a low export price that undercuts the prevailing level of competitive pricing, or a combination whereby the Chinese manufacturer can enjoy a higher margin while still undercutting other market participants. In other words, the effect of the particular market situation on export price is to modify the conditions of competition in Australia to the benefit of Chinese exporters and, to the extent that benefit manifests as a low price that undercuts the prevailing level of competitive pricing in Australia, to the detriment of all other market participants in that market.

Thus, the relative effect of the particular market situation on domestic and export prices is different in the relevant markets.

In the present investigation, the commission considers that the evidence discussed in this chapter indicates that sales in the domestic Chinese market are not suitable for determining a normal value for Jiashilun pursuant to section 269TAC(1) because such sales do not permit a proper comparison with the export price of the goods exported to Australia.

APPENDIX C CONSTRUCTED NORMAL VALUES

C1 Applicable legislation, policy and practice

Where the Minister is satisfied that normal value cannot be determined under section 269TAC(1), as is the case in this investigation for China, section 269TAC(2)(c) provides that the normal value is:

> *… the sum of:*
>
> *(i) such amount as the [Minister] determines to be the cost of production or manufacture of the goods in the country of export; and*
>
> *(ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the [Minister] determines would be the administrative, selling and general costs associated with the sale and the profit on that sale*

As required by sections 269TAC(5A) and 269TAC(5B), the construction of normal values under section 269TAC(2)(c) must be in accordance with the Regulation.

In constructing normal values, section 43(2) of the Regulation requires that the Minister must work out the cost of production or manufacture using the information set out in the exporter or producer's records if:

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

In determining whether costs reasonably reflect competitive market costs associated with the production or manufacture of like goods, the commission will determine whether those costs reasonably reflect the costs associated with the production or manufacture of like goods **and** are competitive market costs suitable for the purpose of constructing normal values.

The commission may determine, pursuant to section 43(2) of the Regulation, that while costs may be in accordance with GAAP **and** may reasonably reflect the costs associated with the production or manufacture of the like goods, being the costs actually incurred by the exporter or producer, the costs may not be a competitive market cost suitable for the purpose of constructing normal value. In those circumstances, it is the commission's practice to provide a reasoned explanation of why those costs do not reflect competitive market costs and why they are not suitable for constructing a normal value. Where an allegation that particular market situation exists, the reasoned explanation will include any relevant particular market situation assessment and finding.

It is the commission's view that it is open for the Minister to adjust an exporter or producer's records to reasonably reflect competitive market costs associated with the manufacture of the goods in the country of export, where an exporter or producer's records are reliable and in accordance with GAAP but do not reasonably reflect competitive market costs associated with the manufacture of like goods suitable for the purpose of constructing normal values. In making such adjustments, the commission considers that the Minister may have regard to all relevant information.

C2 Establishing normal values

The commission notes that, in accordance with section 269TAC(3A), the Minister is not required to consider working out the normal value of goods under section 269TAC(2)(d) before working out the normal value of goods under section 269TAC(2)(c). Where section 269TAC(1) is not available, the commission's policy preference, as outlined at chapter 10 of the Manual, is to construct normal values under section 269TAC(2)(c), in the first instance, when cost data of exporters is available.

When considering whether it is preferable to use the price paid or payable for like goods sold by the exporters to a third country, pursuant to section 269TAC(2)(d), the commission must be satisfied that it is an 'appropriate third country'. The commission has regard to the following factors, to determine whether any such third country is 'appropriate':[122]

- whether the volume of trade from the country of export to the selected third country is similar to the volume of trade from the country of export to Australia, and
- the nature of the trade in like goods between the country of export and the selected third country is similar to the nature of trade between the country of export and Australia (in considering 'nature of trade' such things as the level of trade in a third country may be relevant).

In this case, the commission considers that the information provided by Jiashilun in its REQ does not provide a precise or granular level of detail to determine whether a third country would be appropriate and to undertake the calculations required to determine a normal value.

Consequently, the commission has constructed normal values under section 269TAC(2)(c) for Jiashilun, and has done so in accordance with sections 43, 44 and 45 of the Regulation, relevant aspects of which are outlined below.

C3 The records of Jiashilun

The commission is satisfied that Jiashilun kept records in relation to the production of like goods. Further, the commission is satisfied that Jiashilun's records are in accordance with GAAP in China and reasonably reflect costs associated with the production of like goods, being that they reflect the costs actually incurred by Jiashilun.

Additionally, the commission assessed whether the costs of production as reported in Jiashilun's records reasonably reflect *competitive market costs* suitable for constructing a normal value.

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[122] The Manual, page 51.

The commission highlights that Jiashilun's records for the production of like goods include the following items:

- raw materials, being CRC
- other materials
- direct labour
- manufacturing overheads
- an offset for scrap.

The vast majority of the Jiashilun's overall costs of production relate to CRC (representing approx. 90%). CRC costs therefore are most relevant the commission's assessment of whether Jiashilun's records reflect competitive market costs. HRC costs, which are comparable to CRC costs, due to the similar characteristics of both inputs, were the only cost items directly mentioned in Signode Australia's application as linked to the particular market situation in respect of like goods. The commission has examined in **Non-confidential Appendix A6.2** the degree to which particular market situation impacts on CRC prices in the Chinese domestic market.

Noting the commission's finding that a particular market situation exists in respect of like goods in China, the commission compared Jiashilun's recorded CRC costs to a competitive international benchmark unaffected by the particular market situation. The purpose was to assist the commission's determination of whether Jiashilun's recorded CRC cost is a competitive market cost suitable for constructing a normal value.

The commission has established the competitive international benchmark based on CRC prices in Korea and Taiwan as published by MEPS International Ltd, a steel market analysis company.

From previous cases, the commission considers that the particular market situation is absent and normal competitive market conditions prevail in the domestic markets for HRC in Korea and Taiwan. CRC costs in China do not influence purchases in these markets.[123]

The commission considers that the difference between the MEPS CRC prices for Korea and Taiwan and Jiashilun's recorded CRC cost is an indicator of the level of distortion of CRC cost in China caused by the particular market situation.

The commission notes that this approach differs from that taken in SEF 553, where the commission compared MEPS CRC prices for Korea and Taiwan to MEPS CRC prices for China. Following SEF 553, the commission reviewed the competitive international benchmark and considers that Jiashilun's records were preferable to third party data (albeit the third party data is also a reliable source of information) because the commission verified Jiashilun's records during the investigation and the data therein is relevant because Jiashilun is an exporter of the goods during the investigation period.

The commission considers that the competitive international benchmark is indicative of a competitive market cost unaffected by the same particular market situation in respect of the like goods in China. The competitive international benchmark indicates that the CRC cost in such a competitive market, after allowing for differences that might affect the

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123 See REP 529 available on the commission's website.

comparison, were materially higher during the investigation period than the CRC cost recorded in Jiashilun's records.

The commission considers that the CRC cost in the records of Jiashilun reflect the impact of the particular market situation to a degree that is not insignificant. The commission considers that the programs and policies of the GOC together with the other interventions in the steel market have lowered the price and cost of CRC in China. This induced and allowed producers of the goods and like goods in China, including Jiashilun, to produce and supply more like goods at a lower price point than otherwise possible.

The commission considers that this lowered price of CRC in Jiashilun's records do not reflect competitive market prices but rather reflect market conditions that are not normal and ordinary.

The commission is therefore satisfied that while the CRC cost recorded in Jiashilun's records may reasonably reflect the costs associated with the production or manufacture of the goods, because of the particular market situation, they do not reasonably reflect competitive market costs associated with the production or manufacture of the goods that are suitable for the purpose of constructing normal value.

The commission has adjusted the recorded CRC costs for Jiashilun on the basis that they did not reasonably reflect competitive market costs absent the market situation.

In doing so, the commission has considered the individual circumstances of Jiashilun's purchases of CRC and has ensured that Jiashilun's adjusted records reasonably reflect costs in China absent the particular market situation.

The commission has not adjusted any of the other items recorded in Jiashilun's cost of production.

C4 Calculation of the raw material cost adjustment

The commission has determined the adjusted CRC cost for Jiashilun by comparing the above competitive international benchmark cost to Jiashilun's actual costs, and applying the resulting variation as an adjustment to its records.

Specifically, the commission calculated an adjustment for each quarter based on the difference between:

(i) a benchmark CRC cost for each quarter (based on MEPS monthly CRC price data for Korea and Taiwan)
(ii) Jiashilun's actual CRC cost for each quarter (based on the weighed average of actual prices paid by Jiashilun to its CRC suppliers in that quarter).

Confidential Attachment 3 provides the commission's benchmark analysis.

Confidential Attachment 8 shows the adjustment made to Jiashilun's CRC costs using the calculated adjustment for each quarter.

APPENDIX D ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS – JIASHILUN

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 553-1 Income tax relief for small low-profit enterprises	Reduce the cost of entrepreneurship and innovation, stimulate the development of small and micro businesses, and promote the expansion of employment. The program is a provided through reduction of tax rate to eligible companies upon approval. The commission is not aware of any WTO notification of this program.	Announcement of the State Administration of Taxation on Issues Relating to Implementation of Inclusive Income Tax Relief Policy for Small Low-profit Enterprises 'State Administration of Taxation Announcement [2019] No. 2'	The program is offered to small low-profit enterprise engaging in non-restricted and non-prohibited businesses, that meets 3 criteria: annual taxable income under RMB3 million no more than 300 employees total assets of less than RMB50 million.	The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government. The amount of benefit from received from paying a lower amount of income tax as a result of this program has been attributed to all the company's sales over the period. It was then allocated to the goods based on the net revenue over the period. The commission considers that this constitutes a benefit in relation to the goods exported to Australia.	The commission has examined the eligibility criteria for the program and considers that eligibility is established by objective and verifiable criteria as set out in State Administration of Taxation Announcement [2019] No. 2. Eligible enterprises will automatically be in receipt of a reduced tax rate. Based on the information available to the commission regarding the nature of the program, in that it is available to small enterprises of any industry and location, there is no evidence to indicate that any of the factors in section 269TAAC(4) have been manifested in the administration of this program. Having considered the factors set out in section 269TAAC(4), the commission is satisfied that the requirements of section 269TAAC(3) have been met. Accordingly, the commission considers a subsidy under this program is not specific and is therefore not countervailable under section 269TAAC.

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 553-2 Special fund for industrial transformation and upgrading in 2019	The program provides grants for qualifying projects. From the information provided to the commission, the scope of projects appears quite broad, with finding decisions resting with municipal bodies. The commission is not aware of any WTO notification of this program.	No legal basis information provided.	Eligibility is limited to enterprises based in Qinhuangdao City. Eligible projects must be for more than RMB3million. Applications are reviewed the Municipal Finance Bureau and Municipal Bureau of Industry.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government. The amount received from this fund has been attributed to all of the company's sales. It was then allocated to the goods based on the export revenue over the period. Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia). The commission considers that this constitutes a benefit in relation to the goods exported to Australia. The financial contributions made under this program meet the definition of a subsidy under section 269T.	Section 269TAAC(2)(b) provides that a subsidy is specific if, subject to section 269TAAC(3), it is limited to entities carrying on business within a designated geographical region. The commission is satisfied this program provides a grant to enterprises located in the Qinhuangdao region, thereby satisfying the criteria in section 269TAAC(2)(b). The commission does not consider that section 269TAAC(3) applies as the subsidy favours enterprises within Qinhuangdao over those located elsewhere.

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 553-3 Exemption and reduction of social insurance payments for enterprises during the epidemic period	The Ministry of Human Resources and Social Security, the Ministry of Finance and the State Taxation Administration exempted medium, small and micro enterprises from contributions to the 3 social security items: basic pension insurance unemployment insurance work injury insurance. The commission is not aware of any WTO notification of this program.	Notice of the Ministry of Human Resources and Social Security, the Ministry of Finance and the State Taxation Administration on the Reduction/Exemption of Enterprises' Social Security Contributions in Phases, 2 February 2020	Medium, small and micro enterprises are automatically eligible for this program. Exemptions may be granted by all provinces, autonomous regions, centrally-administered municipalities (except Hubei Province) and Xinjiang Production and Construction Corps based on the epidemic impact and the fund threshold.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government. Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia). The commission considers that this constitutes a benefit in relation to the goods exported to Australia.	The commission has examined the eligibility criteria for the program and considers that eligibility appears broad. From the evidence available, the commission considers that, having regard to section 269TAAC(4), this program is not specific and therefore not countervailable.