



Australian Government
Department of Industry,
Innovation and Science

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

REPORT NO 369

**REINVESTIGATION OF CERTAIN FINDINGS
IN REPORT NO. 300**

STEEL REINFORCING BAR

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ABBREVIATIONS

| | |
|-------------------------|---|
| \$ | Australian dollars |
| the Act | <i>Customs Act 1901</i> |
| ADRP | Anti-Dumping Review Panel |
| the Commission | the Anti-Dumping Commission |
| the Commissioner | the Commissioner of the Anti-Dumping Commission |
| the goods | the goods the subject of the application (also referred to as the goods under consideration or GUC) |
| Hunan Valin | Hunan Valin Xiangtan Iron & Steel co Ltd |
| INV 300 | Investigation No 300 – Steel reinforcing bar exported from the People's Republic of China |
| Laiwu | Shandong Iron and Steel Company Limited |
| OCOT | Ordinary course of trade |
| OneSteel | OneSteel Manufacturing Pty Ltd |
| the Regulations | <i>Customs (International Obligations) Regulation 2015</i> |
| REP 300 | Report no. 300 |
| SEF | Statement of Essential Facts |
| SG&A | Selling, general and administrative expenses |
| Shiheng | Shandong Shiheng Special Steel Co Ltd |
| Parliamentary Secretary | the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science |
| Yonggang | Jiangsu Yonggang Group Co |

1. INTRODUCTION AND FINDINGS

1.1 Introduction

This report provides the results of the reinvestigation of certain findings in Report No. 300 (REP 300) in respect of steel reinforcing bar (rebar) exported to Australia from the People's Republic of China (China).

As required by the Anti-Dumping Review Panel (the ADRP), the Commissioner of the Anti-Dumping Commission (the Commissioner) has reinvestigated nine specific findings. The nine findings that are subject to reinvestigation are listed below:

- Finding 1: the construction of normal value for Hunan Valin pursuant to subsection 269TAC(2)(c) of the *Customs Act 1901*¹ (the Act) where the amount of profit was worked out by adding 'data related to the arms-length sales of like goods in the ordinary course of trade';
- Finding 2: Consequential amendments to Hunan Valin's normal value and dumping margin after carrying out the reinvestigation of Finding 1;
- Finding 3: Shiheng's selling, general and administrative (SG&A) expenses;
- Finding 4: Consequential amendments to Shiheng's normal value and dumping margin after carrying out the reinvestigation of Finding 3;
- Finding 5: Carrying out the ordinary course of trade (OCOT) test on a quarterly basis in the calculation of normal value for Yonggang;
- Finding 6: Yonggang's SG&A expenses;
- Finding 7: An adjustment to normal value for Yonggang's export cost of capital;
- Finding 8: Reassessment of Yonggang's normal value after carrying out the reinvestigation of Findings 5,6 and 7;
- Finding 9: Consequential amendments to Yonggang's dumping margin after carrying out the reinvestigation of Finding 8.

¹ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

2 BACKGROUND

2.1 Investigation 300

On 12 April 2016, following Investigation 300 (INV 300), the former Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)² accepted the findings in REP 300 and published a dumping duty notice in relation to rebar exported to Australia from China.

REP 300 contained the findings, that:

- rebar has been exported from China at dumped prices;
- there is an Australian industry producing like goods that has experienced injury;
- the dumped goods have caused material injury to the Australian industry; and
- future exports from China may be dumped and that continued dumping may cause further material injury to the Australian industry.

2.2 Dumping Margins

Four exporters cooperated with the investigation: Shiheng; Shandong Iron and Steel Company Limited (Laiwu); Yonggang; and Hunan Valin.

These four exporters accounted for the vast majority of the exports of rebar from China to Australia over the investigation period.

The Commission found during the investigation during the investigation period, all exporters:

- exported rebar to Australia at dumped prices; and
- the volume of dumped goods was not negligible.

A summary of the Commissioner's assessment of dumping margins in REP 300 is set out in the table below:

| Exporter / Manufacturer | Dumping Margin |
|---|-----------------------|
| <i>Shandong Shiheng Special Steel Group</i> | 15.3% |
| <i>Shandong Iron and Steel Company Limited, Laiwu Company</i> | 16.4% |
| <i>Jiangsu Yonggang Group Co. Ltd.</i> | 11.7% |
| <i>Hunan Valin Xiangtan Iron & Steel Co. Ltd.</i> | 15.2% |
| <i>Uncooperative and All Other Exporters</i> | 30.0% |

² The Minister for Industry, Innovation and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker. On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science.

3 ADRP REVIEW

3.1 Legislative framework

Division 9 of the Act sets out the procedures for review by the ADRP of certain decisions by the Minister or the Commissioner.

In relation to decisions by the Minister, a person who is an interested party³ may apply for review by the ADRP of a reviewable decision.⁴ If an application for review is not rejected, the ADRP must make a report to the Minister on the application by recommending that the Minister:

- affirm the reviewable decision; or
- revoke the reviewable decision and substitute a specified new decision.⁵

Before making a recommendation the ADRP may, by written notice, require the Commissioner to:

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within a specified period.⁶

The Commissioner must conduct a reinvestigation as required by the ADRP and give the ADRP a report of the reinvestigation concerning the finding or findings.⁷ The report must:

- if the Commissioner is of the view that the finding or any of the findings the subject of reinvestigation should be affirmed—affirm the finding or findings; and
- set out any new finding or findings that the Commissioner made as a result of the reinvestigation; and
- set out the evidence or other material on which the new finding or findings are based; and
- set out the reasons for the Commissioner's decision.

3.2 Review and reinvestigation

On 13 May 2016, OneSteel Manufacturing Pty Ltd (Administrators Appointed); Yonggang, Shiheng and Hunan Valin made applications to the ADRP for a review of the decision made by the Parliamentary Secretary on 12 April 2016 following INV 300.

On 15 June 2016, the ADRP published a notice under section 269ZZI indicating its proposal to conduct a review.

On 1 August 2016 and 11 August 2016, the ADRP held conferences with the Commission under section 269ZZHA.

³ As defined in section 269ZX.

⁴ Decisions of the Minister that are reviewable decisions are set out in subsection 269ZZA(1).

⁵ Under section 269ZZK.

⁶ Under subsection 269ZZL(1).

⁷ Under subsection 269ZZL(2).

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On 16 August 2016, the ADRP, in conducting its review, wrote to the Commissioner requiring the reinvestigation of specific findings that formed the basis of the reviewable decision.

The specific findings the Commissioner has reinvestigated as required by the ADRP, and any new findings that the Commissioner has made as a result of the reinvestigation, are set out in this report.

4 REINVESTIGATION

4.1 Finding 1

In constructing the normal value under section 269TAC(2)(c) for Hunan Valin, the amount of profit was calculated under regulation 45(3)(b) of the *Customs (International Obligations) Regulation 2015* (the Regulations). Report 300 states that the amount of profit was worked out by adding ‘data related to the arms-length sales of like goods in the ordinary course of trade’.

Regulation 45(3)(b) provides:

(b) identifying the weighted average of the actual amounts realised by other exporters or producers from the sale of like goods in the domestic market of the country of export.

The ADRP commented it would appear that the profit has not been calculated in accordance with regulation 45(3)(b) of the Regulations. The ADRP required the Commissioner to recalculate the profit in accordance with regulation 45(3)(b) of the Regulations. That is, by including the actual amounts realised by other exporters, without the application of the ordinary course of trade test. Following the re-determination of the profit, and on the basis that it will change, the ADRP commented that it would be necessary to re-construct the normal value for Hunan Valin.

4.2 Finding 2

The ADRP requested the Commissioner to undertake any consequential amendments to the dumping margin (and ascertained normal value) for Hunan Valin as a result of the recalculated normal value (following reinvestigation of Finding 1).

4.2.1 Reinvestigation of Findings 1 and 2

The Commissioner reinvestigated Findings 1 and 2 of the ADRP’s reinvestigation request. As a result of the reinvestigation, the Commissioner:

- recalculated the rate of profit as per regulation 45(3)(b) of the Regulations as the weighted average of the actual amounts realised by other exporters from the sale of like goods; and
- made consequential amendments to Hunan Valin’s normal value and dumping margins.

In recalculating an amount for profit under regulation 45(3)(b), the Commission did not filter out the non-OCOT sales of other exporters. The Commission notes that in working out the amount of profit under regulation 45(3)(b) the Commission had regard to the changes in the selling, general and administrative expenses (SG&A) of Shiheng and Yonggang (as a result of its reinvestigation of Findings 3 and 6) which have impacted on the amount of profit for the purposes of regulation 45(3)(b). Hunan Valin’s new profit rate is calculated as ■■■ per cent. This profit rate was ■■■ per cent in REP 300. The Commission’s calculation of the weighted average of the actual amounts realised by other exporters from the sale of like goods is at **Confidential Appendix 1 – WA profitability**. Hunan Valin’s dumping margin is recalculated as 12.3 per cent following the change in its profit rate. Hunan Valin’s revised normal values and dumping margin calculations are at **Confidential Appendix 2 – Hunan Valin TAC(2)(c) NV and DM**.

4.3 Finding 3

The normal value for Shiheng was constructed under subsection 269TAC(2)(c) and there were adjustments under subsection 269TAC(9) relating to export bank charges as well as other adjustments. The SG&A expenses including financial expenses, used in the construction of the normal value appears to include both domestic and export bank charges. The ADRP commented that, in order to undertake a proper comparison with the export prices, it is necessary to remove any element of export bank charges included in the domestic SG&A expenses used in the construction of the normal value under subsection 269TAC(2)(c). The ADRP required the reinvestigation of this finding to ensure that any export bank charges are removed from the domestic SG&A expenses. The ADRP requested the Commissioner, once this has been undertaken and assuming the domestic SG&A expenses have been modified, to construct the normal value under subsection 269TAC(2)(c) with appropriate adjustments under subsection 269TAC(9).

4.4 Finding 4

The ADRP requested the Commissioner to undertake any consequential amendments to the dumping margin (and ascertained normal value) for Shiheng as a result of the recalculated normal value (following reinvestigation of Finding 3).

4.4.1 Reinvestigation of Findings 3 and 4

The Commissioner reinvestigated Findings 3 and 4. As a result of the reinvestigation, the Commissioner has recalculated Shiheng's SG&A expenses by excluding the export bank charges from its financial expenses for the investigation period. Shiheng's recalculation of the SG&A expenses is available at **Confidential Appendix 3 – Shiheng Revised SGA**.

Consequently, Shiheng's SG&A rate is calculated as [REDACTED] per cent. Shiheng's SG&A rate was [REDACTED] per cent in REP 300. As a result, due to the reduction in Shiheng's SG&A rate, the Commission recalculated Shiheng's OCOT profitability for like goods. Shiheng's OCOT profitability for the like goods increased from [REDACTED] per cent in REP 300 to [REDACTED] per cent. The Commission then recalculated Shiheng's normal value and dumping margin by taking the changes in the SG&A rate and profit rate into account. Following these recalculations, the Commissioner found that Shiheng's normal value did not change and, therefore, Shiheng's dumping margin remains at 15.3 per cent. Shiheng's OCOT test and profit rate calculations are at **Confidential Appendix 4 – Shiheng OCOT** and Shiheng's normal value and dumping margin calculations are at **Confidential Appendix 5 – Shiheng DM**.

The Commission also found that a reduction in Shiheng's SG&A changed the profit Shiheng realised from the sales of like goods in its domestic market (i.e. the profit Shiheng realised for all sales in China, including those that were not in the OCOT) from [REDACTED] per cent to [REDACTED] per cent. However, the effect of the increase in Shiheng's profit on the weighted average profit realised by Chinese exporters calculated pursuant to regulation 45(3)(b) is nil due to Shiheng's relatively lower domestic sales volumes of the like goods (Shiheng had [REDACTED] tonnes of like goods sales while in comparison Yonggang had [REDACTED] tonnes during the investigation period). This calculation is available at **Confidential Appendix 1 – WA profitability**.

4.5 Finding 5

The normal value for Yonggang was constructed under subsection 269TAC(2)(c) and there were a number of adjustments under subsection 269TAC(9). The ordinary course of trade test (OCOT) was carried out using the quarterly cost to make and sell (CTMS) of rebar. The ADRP required the reinvestigation of these assessments using the monthly CTMS of rebar rather than a quarterly CTMS. The ADRP commented that this would align these assessments with other comparisons undertaken on a monthly basis by the Commission. If through this process, a different profit rate is determined, the ADRP requested the Commission to re-construct the normal value with this re-determined profit.

4.5.1 Reinvestigation of Finding 5

The Commissioner reinvestigated Finding 5 and, as requested by the ADRP, the OCOT test has been conducted based on the monthly CTMS values (instead of the quarterly CTMS values that were used in the REP 300 calculations). As a result of this change in the OCOT test, Yonggang's OCOT profit rate for the like goods (HRB500 goods) is calculated as [REDACTED] per cent. That profit rate was [REDACTED] per cent in the calculations in REP 300. Yonggang's normal values and the corresponding dumping margin have been recalculated using the [REDACTED] per cent profit rate. The Commission notes that Yonggang's profit from the sale of all like goods in the market (including those that were not in the OCOT) has not been affected.

4.6 Finding 6

Yonggang claims that the SG&A expenses, including financial expenses, used in the construction of the normal value includes both domestic and export bank charges. The ADRP required the reinvestigation of this finding to ensure that any export bank charges are removed from the domestic SG&A. The ADRP requested that, if export bank charges have been included in the domestic SG&A, the Commission modify the SG&A and re-construct the normal value under subsection 269TAC(2)(c).

4.6.1 Reinvestigation of Finding 6

The Commissioner reinvestigated Finding 6 and, as requested by the ADRP, export bank charges have been removed from Yonggang's domestic SG&A calculation. This calculation is at **Confidential Appendix 6 – Revised Yonggang SG&A**. As a result, Yonggang's domestic SG&A value is calculated to be [REDACTED] RMB per tonne. The Commission notes that the reduction in Yonggang's domestic SG&A charges results in an increase to Yonggang's domestic profit in the OCOT sales of like goods. Yonggang's profit is re-calculated as [REDACTED] per cent. This calculation is at **Confidential Appendix 7 – Yonggang OCOT and NV**.

4.7 Finding 7

In relation to the adjustments under subsection 269TAC(9), the ADRP required the Commissioner to re-investigate the adjustment shown as 'export cost of capital' in REP 300. Yonggang has submitted that this adjustment concerns export credit terms. The ADRP required reinvestigation of the nature of this adjustment to ensure that the normal value is properly compared with the export price.

4.7.1 Reinvestigation of Finding 7

The Commissioner reinvestigated Finding 7 and, as requested by the ADRP, the export credit terms adjustment has been removed from Yonggang's normal value calculations.

4.8 Finding 8

The ADRP required the Commissioner to undertake a reassessment of Yonggang's normal value in light of the findings referred to in findings 5 - 7 above.

4.9 Finding 9

The ADRP requested the Commission to undertake any consequential amendments to the dumping margin (and ascertained normal value) for Yonggang as a result of the recalculated normal value.

4.9.1 Reinvestigation of Findings 8 and 9

The Commission recalculated Yonggang's normal values and corresponding dumping margin following the revisions in Yonggang's OCOT test (Finding 5), domestic SG&A (Finding 6), domestic profit rate from like goods sold ordinary course of trade (Finding 6) and export credit terms adjustment (Finding 7). As a result of these changes, Yonggang's normal value and dumping margin have changed. Yonggang's dumping margin is recalculated as 11.5 per cent. This figure was 11.7 per cent in REP 300. Yonggang's revised normal values are at **Confidential Appendix 7 – Yonggang OCOT and NV**, and the dumping margin is at **Confidential Appendix 8 – Yonggang Dumping Margin**.

5 CONCLUSION

As a result of the reinvestigation of Findings 1 – 9, the Commission recalculated the dumping margins as tabulated below:

| EXPORTER / MANUFACTURER | DUMPING MARGIN |
|---|-----------------------|
| <i>Shandong Shiheng Special Steel Group</i> | 15.3% |
| <i>Jiangsu Yonggang Group Co. Ltd.</i> | 11.5% |
| <i>Hunan Valin Xiangtan Iron & Steel Co. Ltd.</i> | 12.3% |

6 APPENDICES AND ATTACHMENTS

| | |
|--|---|
| Confidential Appendix 1 – WA profitability | Calculation of the weighted average of the actual amounts realised by the exporters’ |
| Confidential Appendix 2 – Hunan Valin TAC(2)(c) NV and DM | Hunan Valin’s revised normal value and dumping margin calculations |
| Confidential Appendix 3 – Revised Shiheng SG&A | Shiheng’s revised SG&A calculations |
| Confidential Appendix 4 – Shiheng OCOT | Shiheng’s domestic sales, OCOT test and profitability calculations |
| Confidential Appendix 5 – Shiheng DM | Shiheng’s revised normal value and dumping margin calculations |
| Confidential Appendix 6 – Revised Yonggang SG&A | Yonggang’s revised SG&A calculations |
| Confidential Appendix 7 – Yonggang OCOT and NV | Yonggang’s domestic sales, monthly OCOT test, profitability calculation and normal values |
| Confidential Appendix 8 – Yonggang Dumping Margin | Yonggang’s revised dumping margin calculations |