



**Australian Government**

**Anti-Dumping Review Panel**

# **ADRP DECISION No. 68**

Alloy Round Bar exported from the  
People's Republic of China

April 2018

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## Abbreviations

<b>Term</b>	<b>Meaning</b>
Act	<i>Customs Act 1901</i>
ADC	Anti-Dumping Commission
ADN	Anti-Dumping Notice
China	People's Republic of China
Commissioner	The Commissioner of the Anti-Dumping Commission
FOB	Free on board
Investigation period	1 October 2015 to 30 September 2016
OneSteel	OneSteel Manufacturing Pty Ltd
Platts Export Price	Platts monthly Latin American FOB steel billet prices
Reviewable Decision	The decision of the Commissioner made on 27 October 2017
Review Panel	Anti-Dumping Review Panel
SEF	Statement of Essential Facts
Yonggang	Jiangsu Yonggang Group Co. Ltd

## Summary

1. For the reasons set out below, I have affirmed the decision of the Commissioner to terminate part of the anti-dumping investigation into the export of alloy round bar exported from the People's Republic of China.

## Introduction

2. This is an application for review by OneSteel Manufacturing Pty Limited (OneSteel) of the decision by the Commissioner of the Anti-Dumping Commission (ADC) to terminate part of an investigation. The decision by the Commissioner was a termination decision as defined by s.269ZZN of the *Customs Act 1901* (the Act) and hence is reviewable by the Anti-Dumping Review Panel (the Review Panel).
3. The termination decision was made by the Commissioner on 27 October 2017 and notified by publication of an Anti-Dumping Notice on that date<sup>1</sup>. The application for review was received by the Review Panel within the prescribed time for such an application.
4. The application for review was not rejected under s.269ZZQA of the Act and the Review Panel accepted the reviewable ground in the application. As required by s.269ZZRC, notice that the Review Panel intended to conduct a review was published on the Review Panel's website on 8 March 2018.
5. Pursuant to s.269ZZT of the Act, the Review Panel is required to make a decision on the application within 60 days of giving the notice under s.269ZZRC that it intended to conduct a review.

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<sup>1</sup> ADN No. 2017/152.

6. As Senior Member, I specified in a written direction pursuant to s.269ZYA of the Act that the Review Panel for this review was to be constituted by me.

## Background

7. On 10 January 2017, the ADC initiated an investigation into the alleged dumping of alloy round bar exported to Australia from the People's Republic of China (China).<sup>2</sup> The initiation of the investigation followed an application by OneSteel on 15 November 2016 alleging that the Australian industry had suffered material injury caused by the export of alloy round bar from China at dumped prices.
8. The investigation period for the purpose of assessing dumping was 1 October 2015 to 30 September 2016 and the injury analysis period was from 1 July 2012. A Statement of Essential Facts (SEF) was published on 27 October 2017. The SEF found that for the goods exported to Australia by Jiangsu Yonggang Group Co. Ltd (Yonggang), there has been no dumping of any of the goods.<sup>3</sup> As a result of the finding with respect to Yonggang, the Commissioner terminated the investigation under s.269TDA(1)(b)(i) of the Act so far as it related to Yonggang.<sup>4</sup>
9. The Commissioner subsequently terminated the remainder of the anti-dumping investigation on 25 January 2018 on the basis that the Australian industry had suffered material injury but that the injury caused by the dumped exports was negligible.<sup>5</sup>

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<sup>2</sup> ADN No. 2017/02.

<sup>3</sup> SEF 384, section 1.4 at page 9.

<sup>4</sup> ADN 2017/152.

<sup>5</sup> ADN 2018/17.

## Conduct of the Review

10. Section 269ZZT(1) of the Act provides that if an application for review of a termination decision is not rejected, the Review Panel must make a decision on the application by:
  1. affirming the reviewable decision; or
  2. revoking the reviewable decision.
11. In making a decision under s.269ZZT(1) of the Act, the Review Panel must, with limited exceptions,<sup>6</sup> have regard only to information that was before the Commissioner when the Commissioner made the decision. Except as noted below, in conducting this review I have had regard to the application for review and the documents referenced in the application and to other documents provided to the Review Panel by the ADC which were before the Commissioner when the reviewable decision was made.
12. Section 269ZZRB of the Act allows the Review Panel to seek further information from the ADC in relation to information that was before the Commissioner when the reviewable decision was made and to have regard to that further information. Copies of documents which were before the Commissioner when the reviewable decision was made were requested from the ADC and supplied.
13. Section 269ZZRA of the Act allows the Review Panel to hold conferences for the purpose of obtaining further information in relation to the application or review. A conference was held on 20 December 2018 and a summary of that conference was published on the Review Panel's website on 13 March 2018.

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<sup>6</sup> S.269ZZRA(2) and s.269ZZRB(2).

14. The ADC had indicated in the SEF that the Commissioner proposed to terminate the investigation in accordance with subsection 269TDA(13) of the Act, subject to any submissions received in response to the SEF. Given this, I decided to delay initiation of this review pending the outcome of the decision by the Commissioner with respect to the remaining investigation.
15. As noted above, on 25 January 2018 the Commissioner terminated the remaining investigation and OneSteel sought review of that decision. That review was initiated at the same time as this review.

## Grounds for Review

16. The application by OneSteel had only one ground for the review. This was that the Commissioner's use of Platts monthly Latin American Free on Board (FOB) steel billet prices (Platts Export Price) in the construction of normal values for Yonggang under s 269TAC(2)(c) of the Act was not the correct or preferable decision.

## Consideration of Grounds

17. The ADC found that there was a particular market situation in China and that the Chinese domestic alloy round bar prices were not suitable for establishing normal values under s.269TAC(1) of the Act. Therefore, the ADC used s.269TAC(2)(c) to construct the normal value for Yonggang's exports. For the cost of the raw materials, the ADC used Platts Export Price uplifted by the average cost for the investigation period for each alloy necessary to bring the billet to the chemical specification required for each grade of alloy round bar exported to Australia.<sup>7</sup>
18. In its application for review, OneSteel refers to its submission to the ADC during the investigation. This submission was to the effect that the selection of an export-price based benchmark was not appropriate for use to arrive at 'the cost

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<sup>7</sup> SEF 384, section 6.8.3 at page 32.

of production' for an exporter where a particular market situation had been found in the market of the country of origin and that the ADC should have regard to alternate domestic-based competitive markets for determining the cost of production.

19. According to OneSteel's submission, the problem with a competitive cost benchmark based on export market values is that the distortionary effects of Chinese prices are directly introduced to the value of the benchmark, by virtue of the interaction between non-Chinese and Chinese prices in export markets. The submission refers to the justification given by the ADC in another investigation for using Latin American export billet prices in FOB terms as the best available information on competitive market costs of steel billets. OneSteel then takes issue with the reasons given by the ADC for using those prices.
20. OneSteel submits that the ADC should have used a benchmark based on domestic prices from countries that are economically comparable (in terms of their levels of economic development) to China. Further, OneSteel refers to the information which was available to the ADC as a result of two investigations both of which concerned the key feed material (steel billet) in Thailand and Indonesia. OneSteel points to information sourced from the World Bank to show that these markets were comparable in terms of gross national income per capita to China.
21. The submission by OneSteel noted that the investigation periods for the other two investigations overlapped with the investigation period for 6 months (from 1 April 2016 to 30 September 2016). In the SEF, the ADC refers to the submission by OneSteel and stated that it:

“...considered utilising the verified raw material costs from these investigations for a comparable country to China, but did not establish a reasonable method by which to extrapolate the data for the remaining 6



months of the investigation period. This is especially important given the fluctuations in steel prices from quarter to quarter”.<sup>8</sup>

22. In response to the above statement by the ADC, OneSteel points out that the ADC has indexed a previously benchmarked price in order to extrapolate future price movements. OneSteel points to the review conducted with respect to measures imposed on hollow structural steel<sup>9</sup> and that the ADC indexed the benchmark price established in the original investigation through to the end of the review period by utilising several independent and reputable sources of price information.
23. There is some logic in using a benchmark based on domestic prices from countries that are economically comparable to China. It would seem that the ADC accepted this given that the SEF states that consideration was given to using the data from the other two investigations. The reason given by the ADC for not using the data, namely that it could not extrapolate the data over the remaining investigation period, also seems a reasonable explanation for not using that data.
24. OneSteel suggests that the ADC could have used scrap price information to index the data over the remaining period on the basis that Yonggang is a “major scrap consumer” in China’s Jiangsu province. I find this assertion too vague to ascertain if there is any merit in it. It relies on a MetalBulletin dated after the date of the SEF (and therefore not information to which I can have regard). I do not know how reliable the prices are or how appropriate it is to use scrap prices to index the steel billet prices for Yonggang’s raw material costs.

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<sup>8</sup> SEF 384, section 6.6.4 at page 30.

<sup>9</sup> Report 267 - Review of Anti-Dumping Measures on Hollow Structural Sections exported from the People’s Republic of China.

25. It would have been preferable for the SEF to provide more detail regarding the consideration by the ADC of the possible extrapolation of the data from the two other investigations. However, I am not persuaded that the approach of the ADC was not the preferable approach. In the absence of detail or reliable supporting material regarding the methodology to extrapolate the data, I consider that I should accept the statement by the ADC that it was unable to do so.

## Recommendations/Conclusion

26. For the above reasons, I consider that the applicant has not established that the decision of the Commissioner was not the correct or preferable decision. Accordingly, pursuant to s.269ZZT(1)(a) of the Act, I affirm the reviewable decision.

27. Interested parties may be eligible to seek a review of this decision by lodging an application with the Federal Court of Australia, in accordance with the requirements in the *Administrative Decision (Judicial Review) Act 1977*, within 28 days of receiving notice.



Joan Fitzhenry  
Senior Panel Member  
Anti-Dumping Review Panel  
27 April 2018