



**Australian Government**  
**Anti-Dumping Review Panel**

# ADRP Report No. 88A

Reconsideration of Certain Hollow Sections exported  
from the People's Republic of China by Tianjin Youfa  
Steel Pipe Group Co Ltd

February 2021

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# Contents

Abbreviations.....	3
Summary.....	5
Introduction .....	5
Background.....	7
Conduct of the Review .....	8
Ground of Review.....	10
Consideration of Ground .....	10
“Gateway issues of principle” .....	10
Ascertainment of normal value.....	16
Conclusions and Recommendations .....	20

## Abbreviations

<b>Term</b>	<b>Meaning</b>
Act	<i>Customs Act 1901</i>
ADA	Anti-Dumping Agreement
ADN	Anti-Dumping Notice
CHS	Circular hollow sections
CTMS	Cost to Make and Sell
Commission	Anti-Dumping Commission
Commissioner	Commissioner of the Anti-Dumping Commission
GoC	Government of China
Goods	Certain Hollow Structural Sections exported from the People's Republic of China by Tianjin Youfa Steel Pipe Group Co Ltd
GUC	Goods under consideration
HRC	Hot rolled coil
HRS	Hot rolled strip, also known as narrow strip
HSS	Hollow structural sections
Minister	Minister for Industry, Science and Technology
Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 379	The report published by the Commission in relation to Hollow Structural Sections exported to Australia from China, Korea, Malaysia and Taiwan and dated May 2017
REP 419	The report published by the Commission in relation to Hollow Structural Sections exported to Australia from China, Korea, Malaysia and Taiwan and dated 3 May 2018
Report 88	Review Panel Report No. 88

Review Panel	Anti-Dumping Review Panel
Reviewable Decision	The decision of the Minister made on 6 June 2018
Review Period	1 July 2016 to 30 June 2017
RHS	Rectangular hollow sections
Tianjin Youfa	Tianjin Youfa Steel Pipe Group Co Ltd
WTO	The World Trade Organization

# Summary

1. This is a review of the decision of the Minister for Industry, Science and Technology (Minister) following a review of anti-dumping measures in respect of Certain Hollow Structural Sections (HSS) exported from the People's Republic of China (China) (Reviewable Decision).
2. For the reasons set out in this report, I recommend that the Reviewable Decision be revoked in so far as it relates to the ascertainment of normal value and dumping margin with respect to Tianjin Youfa Steel Pipe Group Co Ltd (Tianjin Youfa) and that the Minister substitute new decisions with respect to the ascertainment of normal values and dumping margins such that Tianjin Youfa's dumping margin is reduced from 10.2% to 4.2%.

## Introduction

3. On 14 July 2017, the Anti-Dumping Commission (Commission) initiated a review (REP 419) of the anti-dumping and countervailing measures (measures) to which Tianjin Youfa is subject. The initiation of the review followed an application by Australian industry, alleging one or more of the variable factors relevant to the taking of the measures had changed. The review was undertaken pursuant to s.269ZDB(1) of the *Customs Act 1901 (Act)*<sup>1</sup> in respect of certain goods under consideration (GUC) namely Certain Hollow Structural Sections exported from the People's Republic of China (China).
4. The review examined Tianjin Youfa's exports of the GUC to Australia in the period 1 July 2016 to 30 June 2017 (the review period). Thyssenkrupp Materials Australia Pty Ltd (Thyssenkrupp) imported the GUC from Tianjin Youfa during the review period.
5. On 6 June 2018, the Minister published a notice accepting the recommendations and reasons for the recommendations, including all the material findings of fact or law set out in the Commission's report of the review, REP 419. The Reviewable

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<sup>1</sup> Unless otherwise stated statutory references are to the *Customs Act 1904*.

Decision ascertained a dumping margin with respect to Tianjin Youfa of 10.2% and a subsidy margin of 1.3%.

6. In July 2018, Tianjin Youfa lodged an application for review of the decision (Review Application) with the Anti-Dumping Review Panel (Review Panel). The application alleged, inter alia, that the Commission 'failed to give adequate consideration of, and weight to, Tianjin Youfa's use of 'narrow strip' in calculating the uplift cost of Hot Rolled Coil (HRC) raw material inputs used in the production of the goods exported to Australia' (Ground of Review). The application did not seek to challenge the subsidy determination.
7. The Review Application was accepted and a notice of the Review Panel's review, as required by s.269ZZI of the Act, was published on 20 July 2018. The Senior Member of the Review Panel directed in writing that the Review Panel for the purposes of that review be constituted by me.
8. In March 2019, I forwarded Review Panel Report No. 88 (Report 88) to the Minister. The report upheld the Ground of Review and recommended that the Minister revoke the Reviewable Decision and substitute a new decision with respect to the determination of the uplift factor to be applied to Tianjin Youfa's costs of a raw material input used in the production of the GUC, known as Hot Rolled Strip (HRS) or narrow strip. On 25 March 2019, the Minister accepted the Review Panel's reasoning and substituted a new decision in accordance with the Review Panel's recommendations, with the effect of subjecting goods exported by Tianjin Youfa to measures set at 10.9%. On 16 May 2019, the Minister made a further decision to correct a typographical error in relation to the specified dumping margin for Tianjin Youfa, so that it reflected a dumping margin of 10.7% rather than 10.9%<sup>2</sup>.
9. Following notification of the Minister's acceptance of the Review Panel's recommendations, Thyssenkrupp initiated proceedings in the Federal Court of Australia seeking a review of Report 88 and the Minister's acceptance of its recommendations in so far as they related to Tianjin Youfa.
10. On 8 October 2020, the Federal Court ordered that the decisions of the Minister and the Review Panel made in respect of Report 88 be set aside, in so far as they

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<sup>2</sup> Notice under s.269ZZM(4) published 17 May 2019.

related to Tianjin Youfa and that the matter be remitted to the Review Panel for reconsideration in accordance with law.

## Background

11. The normal value of like goods to those exported to Australia is to be determined in accordance with s.269TAC of the Act.
12. Subsection 269TAC(1) relevantly provides that the starting point for the determination of normal value is the identification of a suitable number of like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter.
13. Subsection 269TAC(2) relevantly provides that where the Minister is satisfied that 'because of **the situation in the market of the country of export** is such that sales in that market are not suitable' as a basis upon which to determine normal value, then normal value is the sum of such amounts determined by the Minister with respect to the exporter's cost of production, administrative selling and general costs, and profit. Subsection 269TAC(5A) then prescribes that such amounts are in turn to be determined in such manner, and taking account of such factors as the *Customs (International Obligations) Regulation 2015* (Regulation) provide.
14. Regulation 43 relevantly provides that where an exporter keeps records or accounts relating to the production of like goods then those accounts must be used to determine an exporter's cost of production provided, inter alia, that such costs 'reasonably reflect **competitive market costs** associated with a production or manufacture of like goods'. If this is not the case the Minister is able to look to an external benchmark and to substitute that benchmark, suitably adjusted, for the relevant costs of the exporter.
15. Relevant facts to this review are as follows:

- HSS, the GUC, can be manufactured from two types of raw material inputs known as HRC or HRS (narrow strip) which account for approximately 90%<sup>3</sup> of the production costs of the GUC;
- Tianjin Youfa manufactures a range of HSS products utilising both HRC and HRS (narrow strip);
- HRS (narrow strip) is a product unique to China, is 'a marginally lower cost raw material than HRC'<sup>4</sup> and is considered a non-structural grade;
- Tianjin Youfa's circular hollow sections (CHS) exported to Australia in the review period were manufactured from non-structural grade HRS (narrow strip);
- the Commission determined that a situation exists in the domestic Chinese HSS market such that domestic selling prices in that market were unsuitable for the purposes of determining normal value under s.269TAC(1);
- the Commission then proceeded to construct Tianjin Youfa's normal value under s.269TAC(2);
- as HRS (narrow strip) was a product unique to China, the Commission looked to an external benchmark, the competitive market prices paid by Korean and Taiwanese exporters for HRC, the other raw material used in the production of the GUC; and
- the Commission adjusted the external benchmark for HRC to reflect the marginally lower cost of HRS.

## Conduct of the Review

16. As the Federal Court has set aside the findings and recommendations contained within Report 88 and the Minister's subsequent acceptance of those

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<sup>3</sup> REP 419 at page 18.

<sup>4</sup> Ibid at page 20.



recommendations, I am required to reconsider the review application and to report to the Minister on that application by:

- recommending that the Minister affirm the Reviewable Decision; or
- recommending that the Minister revoke the Reviewable Decision and substitute a specified new decision.

I may only recommend a specified new decision if that decision is materially different from the Reviewable Decision.<sup>5</sup>

17. In undertaking the review, s.269ZZ(1) of the Act requires the Review Panel to determine a matter required to be determined by the Minister in like manner as if it were the Minister, having regard to the considerations to which the Minister would be required to have regard if the Minister was determining the matter.
18. Subject to certain exceptions,<sup>6</sup> the Review Panel is not to have regard to any information other than relevant information pursuant to s.269ZZK, i.e. information to which the Commission had regard or ought to have had regard when making findings and recommendations to the Minister.
19. If a conference is held under s.269ZZHA of the Act, then the Review Panel may have regard to further information obtained at the conference to the extent that it relates to the relevant information, and to conclusions reached at the conference based on that relevant information. A number of conferences were convened in my initial review which culminated in Report 88. Details of those conferences were published in that report. Following the remittal of the matter as a consequence of the Federal Court Orders, the following further conferences were convened:
  - 19 October 2020 – Commission;
  - 22 October 2020 – Tianjin Youfa;
  - 13 November 2020 – Commission;

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<sup>5</sup> Subsections 269ZZK(1) and (1A).

<sup>6</sup> See s.269ZZK(4).

- 15 December 2020 – Tianjin Youfa;
- 23 December 2020 – Tianjin Youfa; and
- 2 February 2020 – Commission and Tianjin Youfa.

Non-confidential summaries of the information obtained at the additional conferences were made publicly available in accordance with s.269ZZX(1) of the Act.

20. In conducting this review, I have had regard to the relevant information considered in the preparation of Report 88 and to the further information that relates to relevant information, and conclusions considered in the conferences referred to above.

## Ground of Review

21. Tianjin Youfa's application to the Review Panel contained two Grounds of Review. In August 2018, Tianjin Youfa withdrew one of these grounds, leaving the remaining ground stated as follows:

*The Commission failed to give adequate consideration of, and weight to, Tianjin Youfa's use of "narrow strip" in calculating the uplift cost of Hot Rolled Coil (HRC) raw material inputs used in the production of the goods exported to Australia.*

This Ground was the subject of Report 88 and, following the Orders of the Federal Court, this Ground is the subject of this report.

## Consideration of Ground

### "Gateway issues of principle"

22. Tianjin Youfa seeks to rely upon what it described as three 'gateway issues of principle' which were first raised in communications from Tianjin Youfa's representative and relayed to the Review Panel by the Secretariat on 23 November

2020, and restated in subsequent email communications relayed to the Review Panel on 14 December 2020, and on 22 and 27 January 2021. These principles were considered in conferences with Tianjin Youfa's representative, convened on 23 December 2020 and 2 February 2021.

23. These principles had not been advanced in the context of the preparation of either REP 419 or Report 88. I have therefore considered whether the principles fall within the Ground of Review accepted by the Review Panel<sup>7</sup> and the subject of this report.
24. As noted above, the focus of the ground of review was upon “the use of narrow strip in calculating the uplift cost of Hot Rolled Coil (HRC) raw material inputs used in the production of the goods exported to Australia.” Tianjin Youfa's application to the Review Panel described its issue with the Commission's construction of normal value as “our disagreement with the Commission's uplifted steel material costs when applying benchmark HRC prices sourced from the Korean exporter ... and the Taiwanese exporters ... We claim the benchmark uplift for narrow strip to produce CHS bare is too high and does not adequately reflect the actual cost differential from HRC.”<sup>8</sup>
25. The Ground of Review does not seek to challenge the construction of normal value utilising the methodology outlined in s.269TAC(2) and specifically the adoption and application of an external benchmark price for HRC. Implicitly the Ground of Review accepts that the s.269TAC(2) methodology, including the application of an external benchmark, was appropriate. The Ground of Review seeks to challenge the data that the Commission relied upon in the application of that methodology i.e. the quantum of the “uplift cost”. Tianjin Youfa argues that the applied “uplift” is “too high” as it does not accurately reflect the price difference or differential between HRC and the narrow strip used by Tianjin Youfa in the production of CHS exported to Australia.
26. Importantly, the Ground of Review, and the arguments relied upon in the Review Application to support it, do not claim that the Commission ought to have ascertained normal value under a provision other than s.269TAC(2), for example

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<sup>7</sup> See s.269ZZG(5)(c).

<sup>8</sup> Tianjin Youfa's application to the Review Panel at page 13.

utilising a s.269TAC(1) methodology which would have focused upon Tianjin Youfa's domestic selling prices of like goods to those exported to Australia. Accordingly, to the extent that any of the gateway principles are advanced to support an argument that the normal value ought not to have been ascertained utilising s.269TAC(2) they are not within the scope of the Ground of Review and are therefore beyond the Review Panel's jurisdiction to determine.

27. Tianjin Youfa's first gateway principle is that 'there is no entitlement to conclude that a particular market situation applies to HRS (narrow strip) as the 419 report made no findings in that regard and ADRP did not ask ADC to investigate this issue'.<sup>9</sup> Accordingly, Tianjin Youfa asserts this 'would mean that normal values should be calculated under s.269TAC(1)'.<sup>10</sup> As this principle argues for the ascertainment of normal value by a methodology other than by the adoption of the constructed method prescribed in s.269TAC(2) it is outside of the Grounds of Review and therefore the Review Panel's jurisdiction. I decline to make a finding with respect to this principle.
28. That said, I make the following observations.
29. Tianjin Youfa notes that whilst REP 419, in undertaking its market situation assessment, expressly stated the Commission had 'given consideration to the conditions within the Chinese [HRC] market', it is silent as to the Chinese domestic market for HRS and its significance for the production of the CHS exported to Australia. Accordingly, Tianjin Youfa concludes that the Commission's market situation assessment was limited to the Chinese HRC market. As a similar express finding was not made with respect to the Chinese market for HRS, Tianjin Youfa therefore argues there was no basis for the Commission to consider that it was precluded from relying upon Chinese domestic sales of CHS such that it had no option but to construct normal values for such goods under s.269TAC(2).
30. Tianjin Youfa's argument is based upon the distinction between HRC and HRS (or narrow strip), both of which can be used as major raw material inputs in the production of the goods (HSS), the subject of the review. Tianjin Youfa's Ground of

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<sup>9</sup> Tianjin Youfa's representative's communication of 14 December 2020.

<sup>10</sup> Ibid.

Review is focused upon ‘Tianjin Youfa’s use of narrow strip’, a raw material input unique to China and which was used exclusively in the production of the CHS exported to Australia during the review period.

31. There are two responses to this line of argument. First, it requires a narrow and literal reading of the Commission report, a reading not warranted by context. I interpret the phrase adopted by REP 419, ‘Chinese HRC market’, to be broader than the interpretation given to it by Tianjin Youfa. In my view, the phrase encompasses the major raw material inputs to HSS which can either be HRC or HRS (narrow strip), both of which are steel products produced with common raw materials and production processes, with the only significant physical difference between the two being the width. As the name suggests, narrow strip has a narrower width than HRC. Given the manner in which HRC and HRS are produced, and the uses to which they can be put, it seems illogical to assume that Government influence over one would not also extend to the other.
32. I draw support for this interpretation as to the scope of the Commission’s use of the phrase ‘the Chinese Hot Rolled Coil (HRC) market’ from the content of Appendix A to REP 419. The Commission’s market situation assessment was conducted at the level of the GUC (i.e. HSS) but also considered conditions impacting upon the major raw material inputs to these goods, namely HRC and HRS. The Commission’s assessment had regard to a number of factors, which included ‘Conditions in the Chinese HRC market’ and ‘Factors contributing to imbalances in Chinese steel markets’.<sup>11</sup>
33. With regard to the Chinese HRC market, Appendix A noted a recent increase in ‘Chinese HRC production’ of around 30% to 130 million metric tonnes. Crucially, these figures were said to include ‘hot rolled coil, sheet and **strip production**’ [emphasis added].<sup>12</sup> As this factor was a major consideration in the Commission’s overall assessment of the suitability of the Chinese HSS market it is apparent that the Commission’s reference to ‘Chinese HRC production’ covered a range of products which included HRC and HRS.

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<sup>11</sup> REP 419, Appendix A at pages 65 and 66.

<sup>12</sup> Ibid at page 65, footnote 52.

34. In terms of the factors contributing towards imbalances in the Chinese steel markets, the Commission considered the GoC's influence to be 'a primary cause of the prevailing structural balances within both the broader steel industry and the HRC and HSS markets'.<sup>13</sup> Read in context, this reference to imbalances is a reference to the earlier identified overcapacity within the HRC market which, as we have observed, the Commission considered to include both HRC and 'strip production'.
35. Appendix A's assessment of particular market situation concluded 'that the GoC materially influenced conditions within the Chinese HRC and HSS markets during the review period'.<sup>14</sup> Contrary to Tianjin Youfa's argument, read in context, the reference to the Chinese HRC market must include both markets for HRC and HRS.
36. Secondly, the Commission's market situation assessment was made with respect to 'the Chinese HSS market', a market which is comprised of both RHS and CHS and which is a market not further defined by reference to the type of raw material inputs used in the production of those goods, i.e. whether those goods were produced from either HRC or HRS (narrow strip).
37. Accordingly, as REP 419 contains a determination that 'during the review period the domestic price for Chinese HSS was influenced by the GoC to a degree which makes domestic sales of HSS unsuitable for use in determining normal values under s.269TAC(1) of the Act',<sup>15</sup> the determination includes the HSS market comprised of goods manufactured either from HRC or from HRS.
38. Tianjin Youfa's second gateway principle is advanced in the alternative, and asserts,

*even if there had been a particular market situation finding as to normal value of HRS and HSS, the provision cannot be utilised unless attention is given to the impact on export pricing and only then if differing impact is found.*<sup>16</sup>

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<sup>13</sup> Ibid at page 66.

<sup>14</sup> Ibid at page 74.

<sup>15</sup> Ibid at page 19.

<sup>16</sup> Tianjin Youfa's representative's communication of 14 December 2020.

39. The second gateway principle, by seeking to call in question the Commission's finding with respect to the existence of 'a particular market situation', is directly challenging reliance upon the ascertainment of normal value through the application of the construction methodology prescribed by s.269TAC(2). As the Ground of Review concedes the application of the construction of normal values as a consequence of a finding as to the existence of 'a particular market situation' the second gateway principle is outside the Review Panel's jurisdiction.
40. Tianjin Youfa's third gateway principle is that 'WTO jurisprudence makes clear that a foreign benchmark should not be used if a local data is available'.<sup>17</sup> This argument is premised upon the Commission's 'careful subsidy assessment ... that was directly aimed at identifying government influence' which the Commission quantified to be 1.3%. Tianjin Youfa's argument is that, in the Commission's assessment of the extent of Government influence over the domestic Chinese HSS market, in the context of the application of s.269TAC(2), the Commission cannot attribute a higher percentage than that which it had identified as a countervailable subsidy.
41. The short answer to this third principle is that the phrase 'countervailable subsidy' is expressly defined in s.269T of the Act, whereas the phrase 'the situation in the market of the country of export' is not. This difference suggests that each phrase has its own meaning and that one cannot be substituted for the other.
42. Tianjin Youfa agrees with this proposition but notes that the very programs and measures on which the Commission based its subsidy determination were also factors considered by the Commission as the basis of its satisfaction as to the existence of a 'situation in the market'. Tianjin Youfa poses the question, that as a common set of factors led to the quantification of Government influence over prices amounting to a subsidy outcome of 1.3%, how can the same factors generate a higher percentage outcome in the context of 'situation in the market'. Tianjin Youfa notes 'if each regime is valuing the same thing (by how much do we think PRC government diminished narrow strip of prices), a sensible assessment in one regime will often be the best assessment in the other'.<sup>18</sup>

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<sup>17</sup> Tianjin Youfa's email referred to the Review Panel on 14 December 2020.

<sup>18</sup> Tianjin Youfa's email referred to the Review Panel on 22 January 2021.

43. REP 419 concluded ‘the Government of China was able to exert ... influence through its directives and oversight, subsidy programs, taxation arrangements and the significant number of state owned enterprises and state invested enterprises’.<sup>19</sup> I note that such factors extend beyond those falling within the definition of a subsidy and which provide a basis from the imposition of a countervailing measure.
44. Normal value is a figure derived through the application of a range of statutory provisions, which in this case relevantly involved s.269TAC(2) and (5A) of the Act and the Regulations. Once satisfied as to the ‘situation in the market’ rendering domestic transactions unsuitable, the Commission was able to look to an external benchmark of prices unaffected by the influence of the GoC. In REP 419 the Commission relied upon the weighted average purchase prices paid for HRC by the relevant Korean and Taiwanese exporters. The selection of the external benchmark prices did not require the consideration of the quantum, or adjustment, of any countervailable subsidy independently identified by the Commission. The external benchmark then became the starting point for further adjustments to account for the lower cost of narrow strip consumed by Tianjin Youfa in the manufacture of the CHS goods exported to Australia when compared to the higher cost of the HRC paid by the Korean and Taiwanese exporters. The adjustment ‘was based on the difference in Tianjin Youfa’s purchase price of HRC compared to narrow strip over the review period’.<sup>20</sup>
45. Accordingly, I find nothing within the Act to suggest that the Commission cannot assess the extent of GoC influence over prices in a market as an amount greater than, or different to, an amount determined as constituting a countervailable subsidy.

## Ascertainment of normal value

46. As we have observed, following the determination of a market situation with respect to Tianjin Youfa’s costs of HRC and HRS raw material inputs, the Commission in REP 419, looked to an external benchmark for those costs which could be said to

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<sup>19</sup> REP 419 at page 18.

<sup>20</sup> Ibid at page 20.



reflect the operation of a competitive market, i.e. a market not subject to the influence of the GoC.

47. Four exporters, two from Korea and two from Taiwan, had been subject to the review and had 'cooperated', meaning that the Commission had verified and accepted their production costs data. The Commission therefore looked to these exporters as the basis of an external benchmark and calculated quarterly weighted average prices for HRC paid by those exporters over the review period. These prices were then adopted as an appropriate benchmark and adjusted to reflect the marginally lower price Tianjin Youfa paid for HRS when compared to HRC. The adjusted benchmark was then substituted for the quarterly average prices for HRS paid by those production entities within the Tianjin Youfa group who had exported the GUC to Australia during the review period.
48. In its Review Application, Tianjin Youfa did not seek to challenge the Commission's application of a weighted average to the purchase prices for HRC paid by the four cooperating exporters to arrive at an appropriate external benchmark price. However, in emails referred to the Review Panel on 4 January and 13 January 2021, Tianjin Youfa sought to move away from the adoption of the weighted average prices paid by the Korean exporters and argued for the adoption of the prices paid by the exporter whose prices, on average, were the lowest. Tianjin Youfa noted that purchase prices will vary 'because of the volume, timing, market power etc'. Accordingly, Tianjin Youfa said that the costs of the most efficient (i.e. lowest) exporter should form the basis of the benchmark and that 'if two Taiwanese/Korean entities have differing prices for HRC, the higher one is not explained by PRC influence. It is explained by weaker market power'.<sup>21</sup>
49. I accept that the prices paid by each of the four Korean and Taiwanese exporters may have varied due to a number of factors. The application of a weighted average methodology is generally regarded as smoothing over price variations over time. I also accept that the adoption of the methodology advanced by Tianjin Youfa is likely to produce a different outcome, but to what extent I am uncertain. Nevertheless, I remain unconvinced that the Commission's application of a weighted average methodology to the Korean and Taiwanese exporters' prices for HRC should be

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<sup>21</sup> Tianjin Youfa's email referred to the Review Panel on 4 January 2021.

abandoned, and I find it correct and preferable to follow the Commission's practice and adopt the weighted average methodology.

50. In Report 88 I had assumed that the Korean and Taiwanese benchmark was derived exclusively from purchases of structural grade HRC.<sup>22</sup> However, when the Commission recently reviewed its data it found that the benchmark had included purchase prices for quantities of non-structural grade HRC. The review of the data also confirmed that the CHS exported to Australia by Tianjin Youfa during the review period was constructed from non-structural HRS, and that CHS remained, by volume, the majority of the GUC exported to Australia by Tianjin Youfa.
51. As the Ground of Review is focused upon the adjustment to Tianjin Youfa's production costs for narrow strip having a non-structural rating or grade, I asked the Commission to recalculate the benchmark by excluding the Taiwanese and Korean exporters' purchases of structural grade HRC. A weighted average quarterly price paid by the four cooperating exporters was then identified. I was satisfied that this change in the HRC benchmark would more closely reflect the actual raw material purchases of the Tianjin Youfa group, as those production entities with the group which had exported CHS manufactured from HRS during the review period had a weighted average price paid for HRS less than the weighted average price paid for structural grade HRC.
52. Having excluded structural grade purchases of HRC from the external benchmark, I then asked the Commission to further adjust the benchmark to reflect the percentage difference between the prices for HRC and HRS paid by those entities within the Tianjin Youfa group which had exported CHS to Australia during the review period. This method differed from the approach adopted in Report 88, an approach which Tianjin Youfa criticised as raising,

*actual narrow strip prices by the percentage difference between on the one hand, the foreign hot rolled coil benchmark and on the other, a basket of three products. The basket comprise the [weighted average] of the exporter entities*

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<sup>22</sup> See Summary of Conference convened with Commission representatives on 1 March 2019.

*combined structural hot rolled coil plus non-structural hot rolled coil, plus narrow strip (the 1 v 3 method).*<sup>23</sup>

Tianjin Youfa claimed that the approach adopted in Report 88 was ‘unreasonable’ as it ‘adds back product value differences between actual narrow strip and the other products used in the benchmark’.<sup>24</sup> Tianjin Youfa agrees that ‘a reasonable method required a comparison of cost of benchmark type HRC on the one hand and narrow strip on the other’.<sup>25</sup> The recalculations which I requested the Commission to undertake achieves such a comparison.

53. Report 88 had identified that adjustments to the Commission’s determination of normal value, as reflected in REP 419, were also needed with respect to scrap and that the normal value should only be based upon the costs of those entities within the Tianjin Youfa group which had exported CHS to Australia during the review period. I asked that these two adjustments be carried over into the Commission’s recalculation of Tianjin Youfa’s normal value.
54. On 20 January 2021, the Commission provided the Review Panel with updated calculations with respect to Tianjin Youfa’s normal value and consequential dumping margin. I am satisfied that these recalculations better reflect Tianjin Youfa’s true costs of producing like goods to those exported to Australia in the review period as required by s.269TAC(2)(c) and as such are correct or preferable. Assuming that those recalculations are adopted, the dumping margin would be 4.2%, an amount less than that stated in REP 419 and Report 88 and an amount materially different to that determined as part of the Reviewable Decision.
55. The Commission’s recalculations are set out in the following spreadsheets:
  - *ADRP 2020 - 88A - Confidential Attachment 1 – Uplift.xlsx.*
  - *ADRP 2020 - 88A - Confidential Attachment 2 – Normal Value.xlsx.*
  - *ADRP 2020 - 88A - Confidential Attachment 3 – Dumping Margin.xlsx.*

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<sup>23</sup> Tianjin Youfa’s email referred to the Review Panel on 27 January 2021.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

## Conclusions and Recommendations

56. Pursuant to s.269ZZK(1) of the Act and for the reasons given above, I consider that the Reviewable Decision made with respect to Tianjin Youfa's normal value and consequential dumping margin was not the correct or preferable decision.

57. I recommend that the Minister revoke the Reviewable Decision in so far as it relates to the determination of Tianjin Youfa's normal value and dumping margin and, with effect from the date of the Reviewable Decision, substitute a new decision ascertaining the normal value and consequential dumping margin consistent with those amounts outlined in the Commission spreadsheets headed:

- *ADRP 2020 - 88A - Confidential Attachment 1 – Uplift.xlsx.*
- *ADRP 2020 - 88A - Confidential Attachment 2 – Normal Value.xlsx.*
- *ADRP 2020 - 88A - Confidential Attachment 3 – Dumping Margin.xlsx.*

and referred to in paragraph 55.



Paul O'Connor  
Panel Member  
Anti-Dumping Review Panel  
26 February 2021