Australian Government
Anti-Dumping Review Panel

Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved[1] form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 2 March 2016 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party[2] may lodge an application for review to the ADRP of a review of a ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Time

Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences

You or your representative may be asked to attend a conference with the Panel Member appointed to consider your application before the Panel gives public notice of its intention to conduct a review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. The Panel may also call a conference after public notice of an intention to conduct a review is given on the ADRP website. Conferences are held between 10.00am and 4.00pm (AEST) on Tuesdays or Thursdays. You will be given five (5) business days' notice of the conference date and time. See the ADRP website for more information.

Further application information

You or your representative may be asked by the Panel Member to provide further information to the Panel Member in relation to your answers provided to questions 0, 11 and/or 12 of this application form (s269ZZG(1)). See the ADRP website for more information.

Withdrawal

You may withdraw your application at any time, by following the withdrawal process set out on the ADRP website.

If you have any questions about what is required in an application refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

[1] By the Acting Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.
[2] As defined in section 269ZX *Customs Act 1901*.

PART A: APPLICANT INFORMATION

1. Applicant's details

Applicant's name: Hunan Valin Xiangtan Iron & Steel Co., Ltd. ("Hunan Valin")

Address: Yuetang District, Xiangtan City, Hunan Province, People's Republic of China

Type of entity (trade union, corporation, government etc.): Limited liability company

2. Contact person for applicant

Full name: Wang Libo

Position: Chief Director, Legal Department

Email address: wanglb668@126.com

Telephone number: +86 13907326302

Please note that all communications in relation to this application are requested to take place with and through Hunan Valin's legal representatives. For contact details please refer to Part E of this application.

3. Set out the basis on which the applicant considers it is an interested party

Pursuant to Section 269ZZC of the *Customs Act* 1901 ("the Act"), a person who is an interested party in relation to a reviewable decision may apply for a review of that decision. An *"interested party"* is defined under Section 269T of the Act as including, amongst others, any person who is or is likely to be directly concerned with the importation or exportation into Australia of the goods the subject of the application; any person who has been or is likely to be directly concerned with the importation or exportation into Australia of like goods; and any person who is or is likely to be directly concerned with the production or manufacture of the goods the subject of the application or of like goods that have been, or are likely to be, exported to Australia. Hunan Valin is a manufacturer and exporter of the goods to which the decision relates, namely steel rod in coils, and is thus an *"interested party"* for the purposes of the Act and this application.

4. Is the applicant represented?

Yes ☑ **No**

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.*

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the Customs Act 1901 the reviewable decision was made under:

☑ Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice

☐ Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice

☐ Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice

☐ Subsection 269TK(1) or (2) decision of the Minister to publish a third country countervailing duty notice

☐ Subsection 269TL(1) – decision of the Minister not to publish duty notice

☐ Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures

☐ Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry

☐ Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

6. Provide a full description of the goods which were the subject of the reviewable decision

The goods the subject of the reviewable decision were hot rolled rods in coils of steel, whether or not containing alloys, with maximum cross sections less than 14mm.

The goods included all steel rods meeting the above description regardless of the particular grade or alloy content.

Goods excluded from the goods which were the subject of the reviewable decision were hot-rolled deformed steel reinforcing bar in coil form, commonly identified as rebar or debar, and stainless steel in coils.

7. Provide the tariff classifications/statistical codes of the imported goods

The goods are classified under the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7213.91.00 (statistical code 44);
- 7227.90.90 (statistical code 02); and
- 7227.90.90 (statistical code 42).

8. Provide the Anti-Dumping Notice (ADN) number of the reviewable decision

If your application relates to only part of a decision made in an ADN, this must be made clear in Part C of this form.

2016/47

9. Provide the date the notice of the reviewable decision was published

The reviewable decision was dated 22 April 2016 and was published on the same day, as evidenced by the following which has been extracted from the Anti-Dumping Commission website (see "Date Loaded"):

EPR 301 Public Record for Dumping Investigation - Case 301

No.	Type	Title	Date
040	Notice	Section 8 Notice (PDF 199KB)	02/05/2016
039	Notice	ADN 2016/47 - Findings in Relation to a Dumping Investigation (PDF 5.5MB)	22/04/2016
038	Report	Final Report - REP 301 (PDF 762KB)	22/04/2016

Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application

See Attachment A

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the grounds that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so: ☒

See Attachment B, in respect of which confidential and non-confidential versions have been provided.

10. **Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision.**

11. **Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 0.**

12. **Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision.**

    Do not answer question 12 if this application is in relation to a reviewable decision made under subsection 269TL(1) of the Customs Act 1901.

PART D: DECLARATION

The applicant/the applicant's authorised representative *[delete inapplicable]* declares that:

- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected;
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.

Signature: 

Name: Charles Zhan

Position: Senior Lawyer

Organisation: Moulis Legal

Date: 23 May 2016

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

Provide details of the applicant's authorised representative

Full name of representative:	Charles Zhan
Organisation:	Moulis Legal
Address:	6/2 Brindabella Circuit Brindabella Business Park Canberra International Airport Australian Capital Territory Australia 2609
Email address:	charles.zhan@moulislegal.com
Telephone number:	+61 2 6163 1000

Representative's authority to act

A separate letter of authority may be attached in lieu of the applicant signing this section

See Attachment C.

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature:…….

(Applicant's authorised officer)

Name:

Position:

Organisation

Date: / /

23 May 2016

In the Anti-Dumping Review Panel

Application for review
Steel rod in coil exported from China

Hunan Valin Xiangtan Iron & Steel Co., Ltd.

Introduction

By way of an application to the Anti-Dumping Commission ("the Commission") dated "June 2015", OneSteel Manufacturing Pty Limited ("OneSteel") applied for a dumping investigation into imports of certain steel rod in coil ("RIC") from the People's Republic of China ("China").

In response to that application, the Commission initiated the subject anti-dumping investigation in respect of RIC exported from China on 12 August 2015.

At the conclusion of the investigation, in a decision published on 22 April 2016, the Parliamentary Secretary to the Minister for Industry, Innovation and Science ("the Parliamentary Secretary") decided to impose dumping duties on RIC exported to Australia from China.[1]

Specifically, the Parliamentary Secretary decided to publish notices in relation to RIC exported from China under Sections 269TG(1) and (2) of the *Customs Act 1901* ("the Act").[2] These notices had the effect of imposing dumping duties on exports from the exporters to which they applied.

Hunan Valin Xiangtan Iron & Steel Co., Ltd. ("Hunan Valin") is a Chinese manufacturer and exporter of RIC.

Hunan Valin seeks review by the Anti-Dumping Review Panel ("the Review Panel"), under Sections 269ZZA(1)(a) and 269ZZC, of the decision (or decisions) made by the Parliamentary Secretary to impose dumping measures against its exports of RIC to Australia, as outlined in this application.

We now address the requirements of both the form of application that has been approved by the Senior Member of the Review Panel under Section 269ZY, and of Section 269ZZE(2)(b) in relation to each of Hunan Valin's grounds of review, being those requirements not already addressed within the text of the approved form itself.

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[1] Based on the recommendations contained in *Report No. 301 – Alleged Dumping of Steel Rod in Coils Exported from the People's Republic of China*, 29 March 2016 ("Report 301").

[2] A reference in this Application to "the Act", or to a "Section", "Subsection" or "Subparagraph" is a reference to a Section, Subsection or Subparagraph of the Act, unless otherwise specified.

A First ground – the steel billet cost substituted in Hunan Valin's costs of production was not determined in the country of export

Introduction

In Report 301, the Commissioner of the Anti-Dumping Commission (hereinafter "the Commission") recommended to the Parliamentary Secretary that the situation in the market of the country of export (namely, China) was such that sales in that market were not suitable for use in determining a price for normal value purposes under Section 269TAC(1). As a result, the Commissioner proceeded to work out the normal value of the RIC concerned under Section 269TAC(2)(c), on the basis of the cost to make and sell the RIC, and profit.

In working out the normal value in this way, the Commission did not use Hunan Valin's costs as set out in its financial records, or at least did not *only* use Hunan Valin's costs. Instead, the Commission "substituted" what it referred to as a "benchmark" cost for steel billet into Hunan Valin's costs.

The Commission claims to have done this because it was not satisfied that Hunan Valin's financial records *"reasonably reflect[ed] competitive market costs associated with the production or manufacture"* of RIC by Hunan Valin.[3]

The dumping margin calculated for Hunan Valin in Report 301 with the substitution of the benchmark cost was a positive (dumping) margin of 44.1%.

Hunan Valin disagrees with the substitution of the benchmark cost for steel billet in the determination of its normal value.

10 Grounds

Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

The first ground of Hunan Valin's disagreement is that a cost of production such as, in this case, a steel billet cost, is required by the Act to be *"such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export"*, and it was not such a cost.

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[3] *Customs (International Obligations) Regulation 2015*, Regulation 43(2)(b) refers. A reference in this Application to a "Regulation" is a reference to these Regulations, unless otherwise specified.

Section 269TAC(2) provides as follows:

> *Subject to this section, where the Minister:*
>
> *(a) is satisfied that:*
>
> *(i) because of the 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 subsection (1); or*
>
> *(ii) because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1);*
>
> *the normal value of goods exported to Australia cannot be ascertained under subsection (1); or*
>
> *(b) is satisfied, in a case where like goods are not 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, that it is not practicable to obtain, within a reasonable time, information in relation to sales by other sellers of like goods that would be relevant for the purpose of determining a price under subsection (1);*
>
> *the normal value of the goods for the purposes of this Part is:*
>
> *(c) except where paragraph (d) applies, 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; or*
>
> *(d) if the Minister directs that this paragraph applies--the price determined by the Minister to be the price paid or payable for like goods sold in the ordinary course of trade in arms length transactions for exportation from the country of export to a third country determined by the Minister to be an appropriate third country, other than any amount determined by the Minister to be a reimbursement of the kind referred to in subsection 269TAA(1A) in respect of any such transactions.* [underlining supplied]

The Commission explained the benchmark steel billet cost that it used in working out Hunan Valin's normal value as follows:

> *Based on the size of the market and the geographic distance from China minimising the potential distortions of GoC influenced billet prices impacting on the Latin American billet export prices, the Commission considers that Latin American export billet prices in FOB terms represent the best available information on competitive market costs of steel billets.*[4]

Prima facie, and clearly, a Latin American FOB export billet price is not a cost of production in the country of export of Hunan Valin's RIC. The country of export of Hunan Valin's RIC is China. An export

[4] Report 301, page 17

price of Latin American countries is not a cost in China, was not a cost determined by the Minister in China, and was certainly never a cost of Hunan Valin.

Section 269TAC(5A) directs the Commission, in the consideration of what are the costs of production to use under Section 269TAC(2)(c)(i), as follows:

> *Amounts determined:*
>
> *(a) to be the cost of production or manufacture of goods under subparagraph (2)(c)(i) or (4)(e)(i); and*
>
> *(b) to be the administrative, selling and general costs in relation to goods under subparagraph (2)(c)(ii) or (4)(e)(ii);*
>
> *must be worked out in such manner, and taking account of such factors, as the regulations provide for the respective purposes of paragraphs 269TAAD(4)(a) and (b).*

In Report 301, the Commission maintained that:

> *… normal values were constructed under subsection 269TAC(2)(c) and in accordance with the conditions of sections 43, 44 and 45 of the Customs (International Obligations) Regulation 2015 (the Regulation).*[5]

Taking each of these Regulations in turn, we note:

- Regulation 43(1) is a directional or descriptive regulation, which does not in our view impact on the issues at hand. It simply restates Section 269TAC(5A).
- Regulation 43(2) sets out when the Minister must use the financial records of an exporter to work out an amount as a cost of production – for the purposes of argument, we will proceed on the assumption that the Minister did not have to use Hunan Valin's financial records, by reason of the non-compliance of those records with a requirement of Regulation 43(2)(b).
- Regulation 43(3), (4) and (5) relate to the allocation of costs, and thus are not relevant for present purposes.
- Regulation 43(6) and (7) relate to the adjustment of costs in the circumstances of start-up operations, and thus are not relevant for present purposes.
- Regulation 43(8) relates to the Minister's ability to disregard any information that is considered to be unreliable, and thus is not relevant for present purposes.[6]

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[5] Report 301, page 11.

[6] Report 301 states as follows:

- Regulation 44 refers wholly to administrative, selling and general costs, and thus is not relevant for present purposes.
- Regulation 45 refers wholly to profit, and thus is not relevant for present purposes.

We see nothing in any of these provisions which directs, allows or even suggests that the Commission could use, in the circumstances here at issue, an export price of Latin American countries as a cost of production of an exporter having China as its country of export. The statutory requirement under Section 269TAC(2)(c)(i) is that the Commission (ultimately, the Minister) must determine the amounts of the costs of production or manufacture of the goods *"in the country of export"*. The Commission has not done so. Reading the relevant provision of the Act to the effect that the cost does not have to be a cost in the country of export is to give those words – *"country of export"* – no meaning. And, if it is the case that this simple proposition needs further support, the scheme of the normal value construction provisions of the Act (as we point out below) gives relevance to the choice of the place of the cost and of the information that can be used for that purpose and therefore provides such support.

Evidently, the Commission has determined what it *wants* the costs in the country of export to be. Hunan Valin's concern and complaint is that the benchmark steel billet cost does not exist in the country of export, is not "of" the country of export, is formed by economic forces which are not evident in the country of export and indeed has no relationship to the country of export.

To the contrary, the Commission has attempted to do its best to ensure that the cost it used has nothing whatsoever to do with the country of export:

> *Based on the size of the market and the geographic distance from China minimising the*

> *The Commissioner considers that under section 43(2(ii)) of the Regulation, in line with the market situation finding, the costs to produce billet are unreliable and as such are disregarded in favour of the Latin American benchmark billet costs under section 43(8) of the Regulation.* (Report 301, page 18)

We disagree with the baldly-stated proposition that Hunan Valin's costs were *"unreliable"*. They were Hunan Valin's costs. No finding was made that Hunan Valin's financial records were not in accordance with generally accepted accounting principles in China. No finding was made that they were not "costs". The finding that they would not be used was because they were said not to *"reasonably reflect competitive market costs"*. Literally, the costs were *unreliable* but that is only because the Commission chose not to rely on them for the purposes of its determination of normal value. But the costs *themselves* were not found to be intrinsically unreliable, and could not be so found, such as might be the case if they were false, untrue or unable to be verified. The Commission agrees, stating:

> *At the conclusion of the visit the visit team was satisfied that the costs indicated in the CTMS data provided were reflective of the total actual cost of manufacture of the goods. (Hunan Valin – Visit Report – Exporter* (January 2016), EPR document 025 ("the Visit Report"), page 21)

However even if the Commission believed it to be necessary to arrive at such a finding under Regulation 43(8), we do not believe that it detracts from our analysis.

> *potential distortions of GoC influenced billet prices impacting on the Latin American billet export prices, the Commission considers that Latin American export billet prices in FOB terms represent the best available information on competitive market costs of steel billets.*[7]

We submit that Australian law directs the Minister to work out the normal value of goods, where the prices in sales of those goods are considered not to be suitable for that purpose, based on:

- the sum of *"cost of production or manufacture of the goods in the country of export*" according to Section 269TAC(2)(c); or
- third country sales under Section 269TAC(2)(d).

The proposition that the Commission might not *want* to proceed in either of those ways is irrelevant. In our submission the law is clear, and must be applied.

The principal and overarching requirement for such a normal value calculation is regulated by Section 269TAC(2)(c) and (d). The operation of Regulation 43 is for the purpose of prescribing the "manner" to be adopted, and the "factors" that should be taken into account, in working out the relevant costs described under Section 269TAC(2)(c)(i). We have explained how none of the Regulations mandate or permit the use of costs that are not determined in the country of export. The "manner" and the "factors" must still comply with and cannot extend beyond the enabling law and the regulation-making power under that law. The consideration that permits the Minister not to use the financial records of an exporter – being a conclusion that the records do not reasonably reflect competitive market costs[8] – is not a justification for ranging far and wide around the world to identify costs which do not exist in the country of export.

In response to this, the Commission might maintain – and has frequently said - that no costs for steel inputs (in this case, steel billet) in China reasonably reflect competitive market costs. Rather than support its position, maintaining this proposition instead underlines the illogical nature of such an application of the law. The Act provides that the Minister must determine the costs in the country of export. The records of an exporter need not be used for that purpose if they do not reasonably reflect competitive market costs. But the Minister must still determine the costs in the country of export.

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[7] Report 301, page 17.

[8] Our client maintains that Regulation 43(2)(b)(ii), despite being a law of Australia, is a non-compliant implementation of the relevant provision in the WTO *Anti-Dumping Agreement*, which instead refers to an obligation on the investigating authorities to use the financial records of an exporter for normal value determination if they are maintained in accordance with the GAAP of the country of export and *"reasonably reflect the costs associated with the production… of the goods"* (Article 2.2.1.1 refers).

Presumably, the Commission at this point of the argument would say that it cannot or should not use costs in China because it does not think any of them reasonably reflect competitive market costs. This is illogical because the Commission's starting point is itself illogical, as we now explain.

We refer the Review Panel to Section 269TAC(4), which describes the way in which a cost-based normal value may be worked out where:

> *…the Government of the country of export:*
>
> *(a) has a monopoly, or substantial monopoly, of the trade of the country; and*
>
> *(b) determines or substantially influences the domestic price of goods in that country;*

A country with this kind of economy is colloquially referred to as having a non-market economy. In that situation, pursuant to Section 269TAC(4)(e), the normal value may be:

> *…a value equal to the sum of the following amounts ascertained in respect of like goods produced or manufactured in a country determined by the Minister and sold for home consumption in the ordinary course of trade in that country:*
>
> *(i) such amount as the Minister determines to be the cost of production or manufacture of the like goods in that country;*
>
> *(ii) such amounts as the Minister determines to be the administrative, selling and general costs associated with the sale of like goods in that country and the profit on that sale;*

We also refer the Review Panel to Section 269TAC(5D)(a), which allows the normal value to be *"the amount determined by the Minister, having regard to all relevant information"* unconstrained by the rules under Section 2569TAC(2)(c) (ie *"in the country of export"*) or of Section 269TAC(4)(e) (ie *"in a country determined by the Minister"*), where:

> *both of the following conditions exist:*
>
> *(i) the exporter of the exported goods sells like goods in the country of export;*
>
> *(ii) market conditions do not prevail in that country in respect of the domestic selling price of those like goods;*

A country with these kind of conditions in the market for the goods concerned is defined as an economy in transition under the Act. Notably, Section 269TAC(5D) cannot be applied to China, because China is listed in Schedule 2 to the *Customs (International Obligations) Regulations 2015*, which provides that Section 269TAC(5D) cannot be applied against the WTO Members there listed.

To return to our earlier point, we respectfully say that it is illogical to say that there is or can be no "cost" that reasonably reflects a competitive market cost in China. This is because the legislature has intended, and the legislation states, and the World Trade Organisation *Anti-Dumping Agreement* requires, that the costs for normal value determination are to be determined in the country of export. The express words of the legislation, and the scheme of the legislation, require this to be the case:

- For a WTO Member, being a country specified in Schedule 2 of the Regulations to which we have referred, the costs determined by the Minister are those *in the country of export*.
- For non-market economies, the costs to be determined are those *in a country determined by the Minister* – they do not have to be determined in the country of export, and indeed would be unlikely to be so determined because of the finding that the country was a non-market economy.
- For countries where market conditions do not prevail in respect of the domestic selling price of those like goods, referred to as "economies in transition", the normal value can be determined by the Minister *having regard to all relevant information*.

By stipulating the information to be used for the purpose at each of these tiers, or in each of these situations, the Act makes clear that exporters of WTO Members are entitled to have costs in the country of export used for constructed normal value purposes, but that this is not the case for exporters from non-market economies[9] or economies in transition.

Moreover, if the Commission remains unmoved by the proposition that the legislation precludes the adoption of costs that are not *"determine[d]… in the country of export"*, the legislation has helpfully allowed there to be an alternative, namely third country export prices. In other words, if the Minister cannot determine the costs in the country of export, then the other option that is available is that presented under Section 269TAC(2)(d).

This requirement that the costs of production for the calculation of normal value are those in the country of export has been confirmed and crystallised by the WTO Panel decision in *European Union – Anti-Dumping Measures on Biodiesel from Argentina*[10] ("EU - Biodiesel"). That dispute involved the EU's decision to resort to a constructed normal value in relation to exports from Argentina. In constructing the normal value the EU substituted a FOB price based benchmark cost for soybean into the Argentinian exporter's costs of production, on the basis that the Argentinian cost of soybean was distorted by various Argentinian Government regulatory measures.

The Panel stated:

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[9] It is noted that listing of a WTO Member in Schedule 2 of the Regulations does not preclude a WTO Member from being a non-market economy for the purposes of Section 269TAC(4). However if a country is a non-market economy then it would not be a member of the WTO.

[10] WT/DS473/R (29 March 2016)

> *7.256. The text of both Article 2.2 of the Anti-Dumping Agreement and Article VI:1(b)(ii) of the GATT 1994 refer to the "cost of production" in "the country of origin". Thus, the question before us is whether the cost used by the EU authorities for soybeans can be understood to be a cost in "the country of origin", that is, in Argentina.*
>
> *7.257. We recall, in this regard, that the EU authorities found the domestic prices of the main raw material used by biodiesel producers in Argentina to be "artificially lower" than international prices due to the distortion created by the Argentine export tax system. On that basis, the EU authorities disregarded the price actually paid by Argentine producers for soybeans and replaced it with "the price at which those companies would have purchased the soya beans in the absence of such a distortion". Accordingly, the EU authorities replaced the average actual purchase price of soybeans during the IP, as reflected in the producers' records, with the average reference price of soybeans published by the Argentine Ministry of Agriculture for export, FOB Argentina, minus fobbing costs, during the IP. The EU authorities considered that this reference price reflected the level of international prices and that this would have been the price paid by the Argentine producers in the absence of the export tax system.*
>
> *7.258. In our view, it is plain from this that the cost used by the European Union is not a cost "in the country of origin". It was specifically selected to remove the perceived distortion in the domestic price of soybeans caused by the Argentine export tax system. This is because the prices prevailing in Argentina were considered to be artificially lower than international prices. In other words, the EU authorities selected this cost precisely because it was not the cost of soybeans in Argentina.* [footnotes omitted]

Thus, the Panel decided that the costs used for constructing normal value under Article 2.2 of the *Anti-Dumping Agreement* must be based on the cost of production in the country of origin. The Panel ruled as follows:

> *7.260. …the European Union acted inconsistently with Article 2.2 of the Anti-Dumping Agreement and Article VI:1(b)(ii) of the GATT 1994 by using a "cost" that was not the cost prevailing "in the country of origin", namely, Argentina, in the construction of the normal value.*

We submit that the WTO Panel's finding in EU - Biodiesel is directly relevant to the present investigation, and resolves any ambiguity, as it establishes that costs in the country of origin must be used for normal value purposes. A finding of the existence of a "particular market situation" in the market for the like goods (which, in Australia, equates with the situation where sales in that market are found not to be suitable for use in determining a price for normal value purposes) simply allows the investigating authority to determine the normal value by way of a cost-based construction or to base it on an exporter's third country sales. It does not allow the investigating authority to go beyond the markets of the country of export and substitute costs which are not those "in" or "of" the country of export.

We submit that these findings confirm the already clear language of Section 269TAC(2)(c) of the Act, which requires the constructed normal value to be based on *"the cost of production or manufacture of the goods in the country of export"*, together with the relevant selling, general and administrative ("SG&A") and profit.

Accordingly, Hunan Valin respectfully requests the Review Panel to find that the substitution of a

benchmark steel billet cost derived from prices for steel billet exported by Latin American countries is not the correct or preferable decision.

11 Correct or preferable decision

Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10

Assuming for the purposes of argument that the Commission correctly formed the view that Hunan Valin's costs did not reasonably reflect competitive market costs in one or other respect, the correct or preferable decision ought have been that any cost used still had to be such amount as determined by the Minister in the country of export. In that the benchmark steel billet cost was not so determined, that part of the reviewable decision was incorrect.

In B below, we identify the further consequences that flow from the making of the correct decision.

12 Material difference between decisions

Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision

The proposed decision (that the benchmark steel billet cost substituted by the Commission not be used) without any other decision being made by the Commission (ie about the legitimacy of the decision that Hunan Valin's financial records did not reasonably reflect competitive market costs, and about the consequences of that decision), do not resolve the question of what ultimately is the correct or preferable decision.

The acceptance by the Review Panel of this ground of review is materially different because the Review Panel would not then be able to recommend to the Parliamentary Secretary that the benchmark steel billet cost can be used.

The acceptance by the Review Panel of the ground of review in B below, either independently or together with acceptance of this ground of review, is set out in B12.

B Second ground –improper consideration of whether Hunan Valin's records reasonably reflect[ed] competitive market costs

Introduction

As has already been explained, in working out the normal value for Hunan Valin on the basis of its costs of production, the Commission substituted a benchmark steel billet cost. However, it is a matter of

record that Hunan Valin did not purchase steel billet. As found by the Commission:

> *The Commission confirmed that Hunan Valin is a fully integrated steel manufacturer that produces its own billet from iron ore through the operation of four blast furnaces.*[11]

Hunan Valin disagrees with the substitution of the benchmark cost for steel billet in the determination of its normal value. No finding was made as to the competitive market cost of the raw materials that Hunan Valin *did* purchase – amongst which were iron ore, coal and coking coal. In any case the record demonstrates that these inputs were recorded in the financial records of Hunan Valin at their actual costs (as accepted by the Commission)[12] and that those actual costs reasonably reflected competitive market costs (in our client's submission).[13]

10 Grounds

Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

The decision to determine Hunan Valin's costs of production of RIC using a substituted steel billet price was based by the Commission on its finding that the financial records of Hunan Valin did not reasonably reflect competitive market costs.

Axiomatically, it is not possible to determine that a cost did not reasonably reflect a competitive market cost – so as to then go on to substitute it in the cost of production as part of the exercise of determining the cost of production of the goods concerned – unless it is first determined that the exporter's cost was or was not a competitive market cost. A market generates prices by way of the interaction of the forces at work in that market, principally being the forces of supply and demand. In a market, the *cost* of a manufacturer in acquiring an input for production is the *price* of the party that supplied that input to the manufacturer. If there is no price, such as is the case where a manufacturer simply does not buy the input concerned, then there can be no determination made as to whether the cost for that input reasonably or unreasonably reflected competitive market costs.

The gist of the Commission's approach is summarised in Report 301 as follows:

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11 *Hunan Valin - Visit Report – Exporter* (January 2016), EPR document 025 ("the Visit Report"), at page 10.

12 This is because the Commission made this finding – see Visit Report, page 21.

13 This is because of the reporting by Hunan Valin of its iron ore and coal costs (and what that demonstrated about those costs), its full responsiveness to the questions asked of it by the Commission, and its full cooperation and participation in the investigation.

> *In particular, GoC driven market distortions have resulted in artificially low prices for the key raw materials, and this includes other inputs associated with the production of steel billets from which RIC is made.*[14]
>
> …
>
> *The Commission does not consider that it is it appropriate to limit GoC influence to input raw materials only because that would not accurately reflect the extent of the distortion. The Commission considers that to limit consideration of GoC influence to input raw materials only does not capture the influence of the GoC on other costs associated with the conversion of raw materials to steel billet.*[15]

The Commission has in this case remarkably expanded the concept of whether costs of Chinese exporters reasonably reflect competitive market costs by simply assuming that none of the costs do reflect those costs or, alternatively, that it is not necessary to consider whether the individual costs do or do not reflect such costs because of an assumption about GOC influence.

In a list in Report 301 the following inputs in the production of RIC are referred to:

- *Iron ore;*
- *Coking coal and/or coke;*
- *Coal;*
- *Various alloys (chromium, vanadium, magnesium, boron etc.);*
- *Pig iron;*
- *Alloy;*
- *Natural gas;*
- *Electricity;*
- *Water;*
- *Oxygen;*
- *Nitrogen;*
- *Steam;*
- *Lime;*
- *Dolomite; and*
- *Auxiliary materials*

This list is then followed by this statement:

> • *neither exporters' CTMS and raw material purchase information is provided in sufficient detail <u>for the Commission to be able to conduct a comprehensive analysis</u> of all these inputs* [underlining supplied]

It is the Commission's responsibility to conduct an investigation and come to conclusions based on the evidence obtained and whatever other inquiries the Commission might undertake. Our client answered

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[14] Report 301, page 11.

[15] Report 301, page 12.

all the questions that were asked of it and was fully cooperative. In the above extract from Report 301 the Commission states that it *could not* or *did not* undertake the calculation of what would be reasonably competitive market costs for these inputs for the purposes of determining normal value. Further, it flows from this that the Commission did not have the evidence to come to the conclusion that the price paid for the inputs did not reasonably reflect competitive market costs in the first place.

This theme is continued in respect of the following list of raw materials set out in Report 301:

- *Gas coal;*
- *Gas-fat coal;*
- *Fat coal;*
- *High-sulphur fat coal;*
- *Lean coal;*
- *Coking coal;*
- *High-sulphur coking coal;*
- *Anthracite;*
- *North Korea coal;*
- *Soft coal and;*
- *Meagre lean coal.*

At the foot of this list, the Commission states:

> *On the basis of the available information, it is not possible to ascertain whether each of these different sub-types or grades of coal were sourced at competitive market prices. Further, the price of 'iron ore' itself is subject to significant adjustments based on actual iron (Fe) content.* [underlining supplied]

In describing what the Commission has done, we are seeking to expose that it is not possible to determine that costs did not reasonably reflect competitive market costs unless an analysis is made of the costs that are recorded in those records and the relevant conclusion is then drawn about those costs. The Commission's complaint that it was not possible to do that, either at all or in a comprehensive way, or because the information was not available, is not a justification for not doing it and then adopting unfavourable assumptions against the participating exporters.

Moreover, Hunan Valin was entirely cooperative, and provided all of the information as requested by the Commission, including as to its iron ore, coal and coking coal purchases. In its Exporter Questionnaire, Hunan Valin provided a detailed breakdown of the following raw materials in its CTMS:

> [CONFIDENTIAL TEXT DELETED – costs of raw materials reported by Hunan Valin in a confidential attachment to the Exporter Questionnaire]

Indeed, the only raw material that is *not* in Hunan Valin's cost of production of RIC is steel billet.

It is not apparent that any consideration was given by the Commission to the question of whether the reported costs reasonably reflected competitive market costs. Further, the raw material cost that was provided strongly supported the proposition that the cost of these raw materials did reasonably reflect

competitive market costs. For example, the single most significant raw material, iron ore and iron ore fines, was purchased from [CONFIDENTIAL TEXT DELETED – number] countries. More than [CONFIDENTIAL TEXT DELETED – number]% of Hunan Valin's iron ore in the investigation period was purchased from Australia, more than [CONFIDENTIAL TEXT DELETED – number]% from [CONFIDENTIAL TEXT DELETED – country], and more than [CONFIDENTIAL TEXT DELETED – number]% from [CONFIDENTIAL TEXT DELETED – country]. Domestically sourced iron ore comprised [CONFIDENTIAL TEXT DELETED – number]% of the supply at costs which were within the range of the costs of the iron ore supplied from other countries. In terms of coal, Hunan Valin purchased from China and [CONFIDENTIAL TEXT DELETED – country], with the price of the coal purchased from Russia being [CONFIDENTIAL TEXT DELETED – degree] cheaper than that purchased domestically.

Steel billet is not competitively supplied to Hunan Valin on the market *because Hunan Valin produces steel billet itself*. As we have said, we submit that the Commission's focus in its "substitution" exercise must be on those costs in the financial records of the exporter in respect of which it can make a judgement about whether or not they reasonably reflect competitive market costs. That is how markets work. If it is the case that the Commission based its determination on the alleged effect of GOC influences on artificially low prices of the raw materials used by the exporters, then there would at least need to be a finding that they were artificially low because of those influences. This was not done. The Commission has merely said that there are GOC influences, and that therefore no costs reasonably reflect competitive market costs. A steel billet cost for an exporter such as Hunan Valin represents an accusation that every cost it has is not market based – including labour, land rent, depreciation, electricity, and the list goes on. And if the Commission was justified in so labelling any of those costs, then it is the costs of those raw materials that needed to be considered for substitution in the determination of the costs of production. Steel billet is not one of those raw materials. We submit that without a market-generated cost in the first place, no judgement can be made as to whether it reasonably reflects competitive market costs, and no substitution can be so practised.

Accordingly, we submit that it was only those inputs purchased by Hunan Valin on the market that the Commission considered to be distorted by GOC influences that could be considered for the purposes of applying Regulation 43(2)(b), and which could be substituted in the Minister's determination of the costs of production under Section 269TAC(2)(c)(i) if the result of the consideration was that they did not reasonably reflect competitive market costs.

The conclusion that we draw from this, and that we ask the Review Panel to also draw, is that the Commission had no basis to find that Hunan Valin's costs of production of RIC did not reasonably reflect competitive market costs. What the Commission did was to ignore the costs that Hunan Valin did incur,

and instead made a blanket decision, apparently applicable to all Chinese exporters, that a foreign steel billet price would be substituted at a particular point in their cost of production regardless of whether the exporter purchased that input or not.

Hunan Valin also rejects the statement that

- *neither exporters' CTMS and raw material purchase information is provided in sufficient detail for the Commission to be able to conduct a comprehensive analysis of all these inputs*

The Commission never requested any information from Hunan Valin other than CTMS information and information about purchases of major raw materials, being raw materials that constituted more than 10% of the total cost of production. The Commission's statement is not a legal justification for what was done. Adverse decisions cannot be made in an investigation like this on the basis of a lack of information, and certainly the "cure" for that lack of information cannot be and should not be the adoption of a substituted cost for an input that none of the exporters purchased.

We submit on behalf of our client that the proper disciplines under Section 269TAC(2)(c) and its supporting Sections and Regulations must be used. Otherwise, the rule of law is not applied and has no meaning.

11 Correct or preferable decision

Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10

The correct decision ought to have been that there was no evidence, and no proper finding made, that the financial records of Hunan Valin did not reasonably reflect competitive market costs. We submit that it was unlawful to substitute a steel billet price into Hunan Valin's costs of production. No findings that Hunan Valin's costs of production did not reasonably reflect competitive market costs were made nor can they now be made.

Hunan Valin was fully cooperative and provided all of the information requested by the Commission. That information was not analysed or not properly analysed for the purposes of excluding it from the Commission's consideration. Nor, in our submission, could it have been excluded, although that is now not relevant. The key point is that any failure by the Commission to properly request, obtain and consider information cannot now be cured, and it is through no "fault" of Hunan Valin that this situation has arisen.

Thus, the reviewable decision concerning Hunan Valin's dumping margin was not the correct or preferable decision.

The Review Panel is therefore requested to recommend to the Parliamentary Secretary that the normal

value for Hunan Valin be worked out under Section 269TAC(2)(c) on the basis that there was no information before the Commission to determine that Hunan Valin's costs did not reasonably reflect competitive market costs or, if there was such information that it was ignored or improperly considered, and that therefore Hunan Valin's costs should be used.

On the correction of this error, and the consequent treatment of Hunan Valin without any cost substitution, the dumping margin for Hunan Valin in the investigation period was [CONFIDENTIAL TEXT DELETED – number]%.

12 Material difference between decisions

Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision

Presently, pursuant to the reviewable decision, the dumping margin in respect of Hunan Valin's exports to Australia during the investigation period was 44.1%. The dumping margin that results from the correction of the error explained above is [CONFIDENTIAL TEXT DELETED – number]%.

We submit that the difference between the outcomes of these two decisions is material.

C Third ground –the use of an incorrect cost in the construction of Hunan Valin's normal value

Introduction

If the Review Panel decides that the Commission validly determined that a benchmark cost for steel billet could be used in the construction of our client's normal value, we wish to raise some concerns about how that construction was done.

The first of these is the inclusion by the Commission of an upwards adjustment to the surrogated steel billet cost.

10 Grounds

Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

As part of the Commission's cost based normal value construction, the Commission adjusted the already surrogated steel billet cost *upwards* with a "yield percentage" factor.

The expression "yield" and its relevance is not referred to in Report 301. In Hunan Valin's visit report, the concept of "yield" is reported by the Commission as follows:

> *The visit team was able to reconcile the May 2015 production quantity reported in the CTMS spreadsheet through to the finished goods ledger input from production for the relevant sizes of rod in coil. The recording process for inputs into production was automated. The visit team traced the total volume of billet consumed to produce that model, less volume for sizes of coil that exceeded the size limitations of the goods description and noted that this reconciled with a yield of* ***[CONFIDENTIAL TEXT DELETED – number]****%. The visit team considers this yield loss to be comparable to our understanding of industry standards.*
>
> *….*
>
> *The visit team examined the cost calculation table and noted the cost of the billet represented* ***[CONFIDENTIAL TEXT DELETED – number]****% of the total cost of production. The visit team noted that scrap credits offset the raw material inputs for production. Hunan Valin advised that this related to offcuts during the rolling production and general yield loss during production. The visit team calculated the scrap credits represented* ***[CONFIDENTIAL TEXT DELETED – number]****% of the total cost of billet production. The visit team compared this to the overall billet yield in rolling of* ***[CONFIDENTIAL TEXT DELETED – number]****% and concluded that the scrap credits reasonably reflected an amount of yield loss that could be reused in earlier production stages. Thus, the visit team considered the scrap credits to be reasonable.*

In simple terms, a "yield percentage" in the circumstances that are here under consideration would represent the *volume-based* yield loss of converting steel billet to RIC. However in *value* terms, such a yield loss is already reflected in Hunan Valin's cost of production for RIC, which takes into account any cost of conversion from steel billet to rod in coil.

The history of the Commission's consideration of the yield loss as a factor in the calculation of our client's constructed normal value is as follows:

(a) At the time of the Visit Report, no "yield percentage" adjustment appeared in the normal vale calculations prepared by the Commission.

(b) At the time of the Statement of Essential Facts ("SEF 301"), our client was provided with margin calculation spreadsheets prepared by the Commission for the purposes of that SEF. This was the first time that our client was appraised of the "yield percentage" adjustment, as it appeared in those spreadsheets.

(c) In our client's comments on SEF 301, it requested that the yield percentage uplift be removed.

(d) In Report 301, the Commission stated:

> *The quarterly conversion costs for Hunan Valin to convert the billet into RIC are then added to calculate cost to make RIC.*

The Commission did not address our client's request concerning yield percentage uplift and did not remove such uplift.

The problem here is that, as referred to in (d), the Commission has *already* and *separately* calculated and applied a "conversion cost percentage" based on the actual cost difference between the unit cost of billet and the unit cost for RIC as part of its inclusion of that surrogate steel billet cost in our client's normal value construction. This "conversion cost percentage" incorporates any yield loss as well as other costs of conversion. The surrogate billet costs do not need to be further adjusted upwards in the normal value construction to account for the yield loss.

The basis of the yield percentage uplift is not explained anywhere by the Commission. Therefore we must assume that the "yield percentage" was adopted to take into account the yield loss between steel billet and the RIC production. If that is the case, it has been double-counted. This is in error and should be corrected.

11 Correct or preferable decision

Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10

As stated above the correct or preferable decision is for the yield percentage not to be double counted, and for the calculation to be redone accordingly.

12 Material difference between decisions

Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision

The surrogated cost of steel billet is a very large proportion of the normal value that was constructed for comparison with our client's export prices to Australia.

The [CONFIDENTIAL TEXT DELETED – number]% yield loss ratio was applied as an uplift of that cost by dividing the "billet index" (unit billet cost) by [CONFIDENTIAL TEXT DELETED – number]% - which transpires to a [CONFIDENTIAL TEXT DELETED – number]% uplift to the billet costs component of the constructed normal value.

Presently, pursuant to the reviewable decision, the dumping margin in respect of Hunan Valin's exports to Australia during the investigation period was 44.1%. The dumping margin that results from the correction of the error explained above (and *only* from the correction of that error) is [CONFIDENTIAL TEXT DELETED – number]%.

We submit that the difference between the outcomes of the margin calculation with the removal of the

double counted yield percentage is material.

D Fourth ground – failure to adjust costs for cost offsets in the form of verified by-products and cost recoveries

Introduction

The Commission failed to take certain cost offsets, or credits, in its calculation of the constructed normal value for our client.

10 Grounds

Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

In its Exporter Questionnaire response our client provided detailed breakdowns of its costs to make the RIC, in the Australian CTMS and domestic CTMS spreadsheets. This breakdown included the following cost items which are in the nature of "cost offsets":

- by product;
- pig iron recovery; and
- gas recovery

These cost items are, as the names suggest, by-products and cost recoveries generated as part of Hunan Valin's integrated production of RIC. These items are generated by our client and either recycled and reused or sold at market value (resale applies to a proportion of the chemical by-products generated in production). In essence, these are internal production cost savings, arising due to Hunan Valin's integrated production and its recycling efficiencies.

These cost credits relate directly to Hunan Valin's own RIC production. The information concerning Hunan Valin's cost recovery system was thoroughly investigated and verified by the Commission and the accounting for those cost recovery items was well acknowledged in the Visit Report. They are part and parcel of our client's integrated production and must be recognised in the constructed value, in the same way as the Commission has accepted and used Hunan Valin's other costs (eg conversion costs and yield percentage costs, noting our concern about double counting of the latter) in accounting for the actual costs of Hunan Valin's production arrangement and situation.

11 Correct or preferable decision

Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10

The correct or preferable decision was to include all of our client's costs, whether positive costs or negative costs.

12 Material difference between decisions

Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision[16]

Our estimation is that the effect of correcting this error in the construction of our client's normal value (and *only* from the correction of that error) would lead to a reduction of its dumping margin by about [CONFIDENTIAL TEXT DELETED – number]%, from 44.1% to [CONFIDENTIAL TEXT DELETED – number]%.

We submit that the difference between the outcomes of the margin calculation with and without the correction for cost offsets and recoveries is material.

E Fifth ground –the use of the wrong profit amount in Hunan Valin's constructed normal value

Introduction

We believe this is a straightforward matter. The error appears to have arisen by reason of a failure to "refresh" an Excel spreadsheet.

10 Grounds

Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

In calculating our client's constructed normal value, the Commission used a profit ratio of [CONFIDENTIAL TEXT DELETED – number]%. This was based on the profitability of our client's

[16] As per the requirement of Section 269ZZE(2)(e) of the Act, and question 12 of the form approved under Section 269ZY of the Act.

domestic sales of like goods in the ordinary course of trade.

The supporting calculation for this profit ratio is contained in a spreadsheet provided by the Commission to our client as an attachment to the Visit Report (the "Dumping Margin Attachments" spreadsheet, with the relevant calculation provided in the worksheet tab entitled "Profit"). The profit ratio shown in the Commission's worksheet is [CONFIDENTIAL TEXT DELETED – number]%. However, the profit ratio should read [CONFIDENTIAL TEXT DELETED – number]%.

The problem on the Commission's part is that the excel spreadsheet needs to be "updated" or "refreshed". The [CONFIDENTIAL TEXT DELETED – number]% ratio has arisen due to an Excel spreadsheet command error.

11 Correct or preferable decision

Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10

The correct or preferable decision is that the profit ratio used in the constructed normal value should be [CONFIDENTIAL TEXT DELETED – number]% and not [CONFIDENTIAL TEXT DELETED – number]%.

12 Material difference between decisions

Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision

Our estimation is that the effect of correcting this error in the construction of our client's normal value (and *only* the correction of this error) would lead to a reduction of its dumping margin of about [CONFIDENTIAL TEXT DELETED – number]% from 44.1% to [CONFIDENTIAL TEXT DELETED – number]%.

We submit that the difference between the outcomes of the margin calculation with and without this correction is material.

Conclusion and request

The decisions to which this application refers are reviewable decisions under Section 269ZZA of the Act. Where references are made to the Commission and its recommendations, it is those recommendations which were accepted by the Parliamentary Secretary and form part of the reviewable decision that Hunan Valin seeks to have reviewed.

Hunan Valin is an interested party in relation to the reviewable decision.

Hunan Valin's application is in the approved form and has otherwise been lodged as required by the Act.

We submit that Hunan Valin's application is a sufficient statement setting out its reasons for believing that the reviewable decisions are not the correct or preferable decisions, and that there are reasonable grounds for that belief for the purposes of acceptance of its application for review.

This application contains confidential and commercially sensitive information. An additional non-confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information is included as an Attachment to the application.

The correct or preferable decisions that should result from the grounds that Hunan Valin has raised in the application, and their individual effect on the outcome of each, are dealt with in A, B, C, D and E above.

Accordingly, being fully compliant with the requirements of the Act, Hunan Valin requests the Review Panel to undertake the review of the reviewable decision, as requested by this application, under Section 269ZZK of the Act.

The Review Panel is requested to recommend to the Parliamentary Secretary that the reviewable decision (being the decision to publish notices under Sections 269TG(1) and (2)) be varied under Section 269ZZM(3)((b) such that the variable factor pertaining to Hunan Valin's normal value is changed consistently with the ground or grounds accepted by the Review Panel, with effect from the original dare of the reviewable decision, and with the publication of the varied dumping margin arising from those grounds.

Lodged for and on behalf of Hunan Valin Xiangtan Iron & Steel Co., Ltd.

Charles Zhan
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