Shenzhen Hongtai Doors & Windows Co., Ltd
9th Floor, Building 2, Baoneng Science and Technology Park, Qinghu Village,
Qinghu Community, Longhua Street, Longhua District, Shenzhen

PUBLIC RECORD VERSION

3 November 2026

The Director
Investigations 1
Australian Trade Remedies Commission
By email: Investigations1@atrc.gov.au

Case 691: Aluminium windows and doors exported from the People's Republic of China

Shenzhen Hongtai Doors & Windows Co., Ltd: response to Statement of Essential Facts No. 691

Dear Director,

Shenzhen Hongtai Doors & Windows Co., Ltd (Hongtai) makes this submission in response to Statement of Essential Facts No. 691 (the SEF), published on 14 October 2026. Hongtai manufactures aluminium windows and doors in China and exported them to Australia during the investigation period. The SEF treats it as a residual exporter and proposes a dumping margin of 24.4% for all residual exporters.

Hongtai welcomes the Commissioner's preliminary view that it is a residual exporter. It asks the Commissioner to confirm that view in the final report on a correct statement of the facts and with reasons that address the statutory test. Beyond that, the submission addresses the findings on which Hongtai's rate and the proposed measures depend. Hongtai's own exports were not examined, so its dumping margin is built entirely from the selected exporters' export prices and normal values. An error in any of those figures is carried into Hongtai's rate. The injury and causation findings determine whether any duty is imposed at all.

Hongtai's status as a residual exporter

The SEF lists Hongtai among the residual exporters and explains the classification in a single footnote. It states that Hongtai 'provided a part response to the PIR by the due date and the remaining just post the due date, the commission has since considered its full response and considered its submission dated 24 August 2026. Hongtai has been included as a residual exporter for the purposes of this investigation.' Elsewhere the SEF records that 'the initiation notice stated PIR responses were due by 8 December 2025.' Hongtai supports the conclusion.

The initiation notice required the preliminary information request (PIR) to be completed, together with 'the associated spreadsheets by 9 December 2025'.[1] The due date was therefore 9 December 2025, and the SEF's reference to 8 December 2025 is incorrect. Hongtai lodged its PIR response on 8 December 2025.

The statutory question is whether Hongtai satisfies both limbs of the definition of a residual exporter. Section 269T(1) defines a residual exporter as one where "(d) the exporter's exports were not examined as part of the investigation, review or inquiry; and (e) the exporter was not an uncooperative exporter in relation to the investigation, review or inquiry." The first limb is not in doubt. The second turns on the definition of an uncooperative exporter, which requires the Commissioner to be satisfied that "the exporter did not give the Commissioner information the Commissioner considered to be relevant to the investigation ... within a period the Commissioner considered to be reasonable" or that "the exporter significantly impeded the investigation".

The Customs (Extensions of Time and Non-cooperation) Direction 2015 (the Direction) governs that satisfaction. It provides that "the Commissioner must consider the legislated period for providing a response to be a reasonable period". The mandatory finding in s.8(b) arises only where the exporter "fails, within the legislated period, to: a. provide a response; or b. request a longer period to provide a response; or ii. provides a response within the legislated period that the Commissioner considers did not provide information relevant to the case." A "response" is defined as "any document or thing provided to the Commissioner in relation to any case". Hongtai provided a response on 8 December 2025, within the legislated period, and that response contained relevant information. Neither trigger in s.8(b) is engaged.

[1] Anti-Dumping Notice No. 2025/115, 25 November 2025 (EPR 691, document no. 3).

On the second limb of the definition, the Direction requires the Commissioner to consider "the reasonable or likely impacts of those actions or omissions, regardless of intention". The completed spreadsheet was with the Commission seven months before the SEF was published. Nothing in the SEF identifies any step in the investigation that the timing delayed.

Injury and causation

Other factors are acknowledged but not separated

The SEF accepts that factors other than dumping contributed to the industry's position. On demand, it states that "this may explain in part the reduction in sales value achieved by Australian industry". On costs, it records that Ventora's raw material cost increase "was approximately 7% higher than the change in LME". On Chinese producers' efficiency, it accepts that "these relative efficiencies may have been a contributing factor". A factor the Commission accepts "may" have contributed must be examined and its effect separated. None of these are quantified. Each is set aside by a finding that dumped imports were the primary cause.

Ventora's own history raises a further factor that the SEF does not address. The industry verification report records that Ventora "was previously owned by JELDWEN before being acquired in 2023 with a name change to the VENTORA GROUP." Ventora's indicators turn in FY2023. Restructuring costs and changes in capacity that followed an acquisition are factors other than dumping, and EcoEco raised them before the SEF.[2]

The Appellate Body has explained that the non-attribution assessment "must involve separating and distinguishing the injurious effects of the other factors from the injurious effects of the dumped imports."[3] The Review Panel has adopted the same requirement, that there be "a satisfactory explanation of the nature and extent of the injurious effects of the other factors, as distinguished from the injurious effects of the dumped imports."[4] Hongtai adopts the submission of EcoEco on the acquisition and restructuring and asks the Commissioner to quantify the effect of each factor other than dumping in the final report, including the 2023 acquisition, before attributing any residual injury to dumping.

No assessment of whether imports would still undercut at undumped prices

The SEF's causation finding rests on price undercutting. It records that "Half of all quotes/tenders were undercut by 30% or more", and that "the levels of price undercutting observed were facilitated by dumping". It then reasons by counterfactual that "if Chinese goods did not compete with Australian like goods at dumped and subsidised prices which undercut the prices of Australian industry to a material degree, Australian industry would have had greater bargaining power with its customers". That counterfactual is stated, and is not tested.

The statute asks whether material injury has been caused "because of" dumping. It also requires that injury caused by other factors "must not be attributed to the exportation of those goods". Undercutting shows that imports were cheaper. It does not show how much of the price gap is attributable to dumping. The part of the gap that is attributable to dumping is bounded by the dumping margin.

The Commission has said as much in review. In ADRP Report No. 128, its submission was that "the Commissioner may only attribute any injury suffered by Australian industry to the level of dumping in the goods exported, not the entire margin of price undercutting (if any)."[5] In REP 466 it applied that principle to transaction data, finding that "in a clear majority of transactions analysed during the investigation period, if the imported goods had not been dumped, Comsteel's price would have been lower than the price of imports."[6] The Appellate Body has explained why the separation is necessary because "if the injurious effects of the dumped imports and the other known factors remain lumped together and indistinguishable, there is simply no means of knowing whether injury ascribed to dumped imports was, in reality, caused by other factors."[7]

The arithmetic is straightforward. Where an import offer is lower than the Australian industry's price by a proportion *u*, and the dumping margin is *d* (expressed, as the SEF expresses it, as a proportion of the export price), the offer

[2] EcoEco Windows and Doors Pty Ltd, submission of 5 October 2026 (EPR 691, document no. 496).
[3] Appellate Body Report, *US – Hot-Rolled Steel*, WT/DS184/AB/R, para 223.
[4] Anti-Dumping Review Panel, ADRP Report No. 80, *Steel Reinforcing Bar*, 28 February 2019, [221].
[5] Anti-Dumping Review Panel, ADRP Report No. 128, *A4 Copy Paper*, [59].
[6] Anti-Dumping Commission, Final Report No. 466, *Certain Railway Wheels exported from the People's Republic of China and France*, s 8.13.1.
[7] Appellate Body Report, *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/AB/R, adopted 23 August 2001, para 228.

would remain below the Australian price after the dumping is removed whenever *u* is greater than *d* / (1 + *d*). That threshold treats the whole of the offer price as export price. Offer prices also carry freight, duty, importer margin and frequently installation, so the dumping amount is a smaller share of the offer price than the threshold assumes, and the true thresholds are lower still. On the SEF's own margins the thresholds are as follows.

Exporter	Dumping margin	Undercutting that would remain at an undumped price
Foshan AMJ	5.3%	above 5.0%
Guangdong Kete	12.1%	above 10.8%
Residual exporters (including Hongtai)	24.4%	above 19.6%
Yuanjiang	34.8%	above 25.8%
Zhuhai Yipeng	51.6%	above 34.0%
Uncooperative exporters	70.4%	above 41.3%

At the residual rate, every tender undercut by more than about 19.6% would have been undercut even at an undumped price. On the SEF's own distribution, half of all tenders were undercut by 30% or more. The SEF also recognises that "Chinese manufacturers may have enjoyed a cost advantage in respect of certain costs of production relative to Australian industry". The qualification "may have" does not help the finding. Having identified a cost advantage as a possible cause of lower prices, the Commission must separate its effect before attributing the undercutting to dumping, and it has not done so. That advantage is the obvious explanation for undercutting beyond the margin.

The Commission holds the transaction data needed to perform the test. Hongtai asks the Commissioner to apply the REP 466 method to the tender data underlying section 9.6.1, using each selected exporter's margin and the residual rate for residual exporters, to report the proportion of tenders and of tender value that would remain undercut at undumped prices, and to quantify separately the injury attributable to dumping.

Hongtai asks the Commissioner to disclose Altop's share of examined export value, to recompute the dumped import series with a proportionate exclusion for non-dumped exports, to reconcile the two statements of China's share of imports, and to restate the volume and materiality findings on that basis.

Price suppression measured on a basis the SEF rejects elsewhere

The SEF rejected the unit basis for measuring the market because "measuring the market on a unit basis did not adequately consider the range of AWD products which vary significantly in size, configuration, project requirements and value." Its price suppression analysis nonetheless "compares unit sales revenue and unit CTMS". Averages per unit move with the product mix. A WTO panel has warned that, without comparability, "it is possible that an observed decline in the average unit prices may actually be the result of a change in the product mix".[8]

The industry verification report also records that "3 of the 4 entities allocate raw material costs based on a revenue percentage".[9] Where costs are allocated by revenue, the cost line tracks the revenue line, and a narrowing margin between them is not an independent measure of price pressure. The SEF further states that "Ventora (and other Australian industry participants) was effectively unable to increase prices", although its price analysis is confined to Ventora.

Hongtai asks the Commissioner to confirm whether Ventora's data for FY2022 to FY2024 was verified, to provide a price and cost series controlled for product mix, and to identify the evidence on which the statement about other participants rests.

The Australian industry

The SEF states that "the above Australian industry members together constitute the Australian industry for the purpose of this investigation". The statute defines the Australian industry as the person or persons who produce like

[8] Panel Report, *China – Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union*, WT/DS425/R, para 7.57.
[9] EPR 691, document no. 444, p 18, Table 3.

goods in Australia, and "the industry consists of that person or those persons." The industry members examined are the applicant and its supporters, whose production is said to represent 55% of estimated production. The SEF accepts that "the aggregated data for all Australian industry participants was not available in relation to certain economic indicators". Only Ventora's data was verified. Share lost by the remaining 45% to other Australian producers, including new entrants, would appear in the supporters' figures as industry decline.

Hongtai asks the Commissioner to explain how the production of non-supporting producers is treated in the market size and market share analysis, and to identify the source and verification status of the supporting members' data.

The Minister's discretion

The SEF records that the Commissioner did not weigh the wider effect of the proposed measures, because "beyond this the Act does not provide for the Commissioner to undertake a public interest test". It accepts that "Section 269TL recognises that the Minister may ultimately decide not to impose measures after considering the Commissioner's recommendation." The Act provides that where the Minister "decides, after having regard to that recommendation, not to declare those goods to be goods to which section 8, 9, 10 or 11, as the case requires, of the Dumping Duty Act applies, the Minister must give public notice to that effect." The matters raised in this submission are directly relevant on how that discretion is exercised. The industry examined accounts for 55% of estimated production, aggregated data was not available for all industry participants, and only Ventora's data was verified. Without information about the Australian market as a whole, including the capacity of Australian producers to meet demand, the Minister is not in a position to weigh the effect of measures on that market or on the construction sector that depends on it. The Commission already holds relevant material, including its analysis of the share of aluminium windows and doors in construction costs. Hongtai asks the Commissioner to place before the Minister, with the final report, the information the Commission holds on the broader effect of the proposed measures, so that the Minister is able to exercise the discretion in s 269TL(1).

Hongtai has supplied aluminium windows and doors to the Australian market through its exports. That supply has supported the Australian businesses that buy, sell and use its products, and the local economy that depends on them. Hongtai has a vision for the continued development and growth of the Australian market, and it intends to remain part of that growth. This is part of the wider effect of the proposed measures that the Minister may weigh.

Segments and competitive overlap

Interested parties submitted that imports and Australian production are concentrated in different parts of the market. The SEF answered a different question. It found that the evidence does not support "the broader proposition that the Australian industry is confined to, or, only meaningfully supplies Class 1 buildings", and concluded that the industry "has experienced injury in the form of lost sales across the entire Australian market." Presence in every segment does not establish the degree of competition in each.

A WTO panel has found an authority's causation analysis deficient where, "by misconstruing Chrysler's argument, MOFCOM failed to objectively examine the evidence ... and failed to provide a reasoned explanation".[10] Hongtai does not contend that injury must be assessed segment by segment. It asks the Commissioner to state, by building class, the shares of industry sales and imports, the lost tenders and the undercutting found, so that the extent of competitive overlap can be assessed.

Non-dumped imports and the attribution of lost tenders

The SEF states that "the commission has only considered lost tenders to dumped and/or subsidised Chinese imports." Nothing in the SEF explains how a tender won by an importer of Chinese goods was attributed to a dumping exporter rather than to Altop, whose exports were not dumped. The Manual states that "the Commission will also consider the implications of undumped/unsubsidised goods sold at lower prices than the dumped/subsidised goods in the marketplace."[11] Hongtai asks for the exporters supplying the 13 traced importers to be identified, and for Altop's prices to be compared with industry prices and with the prices of dumped imports.

Causation from dumping alone for residual exporters

The SEF explains that "section 269TJA is relevant in this investigation due to the combined dumping and subsidisation in relation to goods exported to Australia from China by uncooperative exporters and non-cooperative entities." The

[10] Panel Report, *China – Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States*, WT/DS440/R, para 7.345.
[11] The Manual, s 22.3.

subsidy investigation is to be terminated for residual exporters. For those exporters any notice must rest on injury caused by dumping alone. The SEF's analysis throughout concerns goods that are "dumped and/or subsidised". Hongtai asks for a finding on causation by dumping alone in respect of residual exporters.

Assets and capital investment

The industry verification report indexed assets and capital investment to calendar year 2021. On that basis both indicators remained above their base throughout the period. The SEF re-indexes them to FY2022 and finds a decline. The change in base year produces the finding. Hongtai asks the Commissioner to reconcile the two series and identify the source and verification status of the financial year data.

Capacity

The SEF relies on spare capacity to find that "the Australian industry retained the ability to increase output", and treats the same spare capacity as injury, finding that "this excess capacity has been caused by the increasing penetration of dumped and/or subsidised imports from China". The reduction in Ventora's capacity occurred mainly in FY2023, the year of its acquisition. Hongtai asks for actual utilisation rates by year and the reasons for the FY2023 reduction.

Comparability of tender prices

According to the SEF, the tender information "included Ventora's price offer, a Chinese price offer, and source documents" where available. The SEF does not describe any adjustment for differences in scope (supply only or supply and install, glazing, hardware), state of assembly, delivery or timing. The Manual requires price comparisons "ensuring that the transactions are made under the same conditions (e.g. timing, volume, discounts, delivery, credit, same customer etc.)".[12] Hongtai asks what adjustments were made, how many tenders were validated against source documents, and whether any of the Australian industry's verified models is partially assembled. It asks that unvalidated tenders be excluded or reported separately.

Value used as a measure of volume

The SEF "relied on the value of sales" as the basis for its volume analysis, because the import data carries no quantities. Import values are values at the border, and the industry's values are selling prices. Value shares move with price and mix as well as volume. The statute directs attention to "any increase or likely increase, during a particular period, in the quantity of goods of that kind exported to Australia". Hongtai asks the Commissioner to state the valuation basis of each series.

Industry members that import the goods

The SEF's industry questionnaire records a "shift toward imported inputs or imported systems to remain competitive" among members. A member that imports partially assembled frames, which are the goods, may not carry out a substantial process in their manufacture. The SEF tests this "for the purposes of section 269D(3)". The governing provision is s 269T(3), which provides that goods "shall not be taken to have been partly manufactured in Australia unless at least one substantial process in the manufacture of the goods was carried out in Australia." Hongtai asks which industry members import the goods and how their imports are treated in the industry and import data.

The residual dumping margin

The residual export price "must not be less than the weighted average export price for like goods of selected exporters from China" and the residual normal value "must not exceed the weighted average normal value for like goods of selected exporters from China". The statute expresses the same limits by reference to "cooperative exporters". It also requires that the averages "must not include any export price or normal value" where the Minister has determined "that there is no dumping" or a margin "less than 2%". Every correction to a selected exporter's export price or normal value therefore moves Hongtai's rate. The grounds below are directed to corrections that lower it. Hongtai asks the Commissioner to identify which exporters' figures make up the residual averages and the weights applied.

Kete Australia's profit deducted although its sales were unprofitable

[12] The Manual, s 22.3.

In working out Guangdong Kete's export price for sales through Kete Australia, the SEF deducted an amount for the importer's profit. It found that "Kete Australia's sales of the goods were unprofitable during the investigation period" and, "In the absence of a positive profit amount from Kete Australia's sales of the goods", used "Guangdong Kete's OCOT profit on domestic sales of like goods".

The statute permits the deduction of "the profit, if any, on the sale by the importer or, where the Minister so directs, an amount calculated in accordance with such rate as the Minister specifies in the direction". Those words, "if any", direct attention to the importer's actual profit. The Review Panel has said that the provision "directs attention to the actual profit and contemplates there may be no profit".[13] The SEF records no direction. The Manual states that "where an amount for profit to be deducted is not the actual profit of the importer, the Commission will recommend that the Minister make a direction".[14] The exporter's domestic profit is in any event not an importer's profit.

On the SEF's own finding the importer's profit is nil. Deducting a positive amount understates Guangdong Kete's export price, overstates its 12.1% margin, and lowers the weighted average export price from which the residual rate is built. Hongtai asks that the deduction be removed, that Guangdong Kete's export price be recalculated, and that the residual export price and margin be recalculated accordingly.

The benchmark test applied inconsistently

The SEF replaces part of the selected exporters' recorded costs with benchmark prices where it finds those costs affected by the market situation. It applies that test inconsistently.

For Foshan AMJ it found that "at an aggregate level Foshan AMJ's recorded glass purchase prices were above the benchmark over the investigation period", and for Yuanjiang that "at an aggregate level, Yuanjiang's recorded aluminium extrusion purchase prices were above the benchmark over the investigation period". Both were nonetheless found affected and adjusted. On the same aggregate pattern, Zhuhai Yipeng's glass costs were accepted as "at an aggregate level Zhuhai Yipeng's recorded glass purchase prices were above the benchmark over the investigation period". The appendix also states, two pages after the Yuanjiang finding, that "For Foshan AMJ, Guangdong Kete, Yuanjiang and Altop, the benchmark at an aggregated level exceeded the reported aluminium extrusion purchase prices", which contradicts the finding about Yuanjiang.

No threshold or test is stated that explains the different outcomes. An exporter that paid more than the benchmark over the period cannot have had its costs depressed by the circumstances the benchmark is intended to remove. The cost to be determined is "the cost of production or manufacture of the goods in the country of export".

Hongtai asks the Commissioner to state the test applied, to correct the inconsistency between pages 344 and 346, and to accept the recorded costs of Foshan AMJ (glass) and Yuanjiang (aluminium extrusions) or, in the alternative, to net above-benchmark and below-benchmark purchases symmetrically.

Market situation assessed at the level of the inputs

Appendix A states: "In line with legislative requirements, the commission's market situation assessment is undertaken at the level of the goods being investigated, namely glass and aluminium extrusions." The goods under consideration are aluminium windows and doors. The statutory question is whether "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 sales in question are domestic sales of like goods, which here are aluminium windows and doors. In SEF 558 the Commission described the same requirement as an assessment "at the level of the goods and like goods".[15] Hongtai asks the Commissioner to make the market situation finding by reference to the market for aluminium windows and doors in China.

Influence on inputs not shown to affect the price of aluminium windows and doors

The SEF concedes that the effect of the government's influence on input markets on "the price of AWD is difficult to quantify" and concludes that "the GOC's influence on the market for like goods in this investigation is not insignificant." The Manual states that "government influence on costs can only disqualify the sales if those costs can be shown to be affecting the domestic prices."[16] It also states that "the Commission will seek to determine whether

[13] Anti-Dumping Review Panel, ADRP Report No. 24, *Power Transformers*, 30 September 2015, [43], p 12.
[14] The Manual, s 6.3.
[15] Anti-Dumping Commission, Statement of Essential Facts No. 558, Appendix A4, p 111.
[16] The Manual, ch 7.

the impact of the government's involvement in the domestic market has materially distorted competitive conditions."[17] A finding that influence is "not insignificant" is a lower threshold than material distortion.

The SEF states that government involvement "has materially contributed to the AWD industry's overcapacity, oversupply and distorted structure during the investigation period." Appendix A identifies no AWD-specific plan, state-owned AWD producer or AWD capacity data in support. The Federal Court upheld an earlier market situation finding because the decision-maker "did not equate government influence on a market with unsuitability within the meaning of s 269TAC(2)(a)(ii)."[18] The SEF's conclusion comes close to doing exactly that.

Hongtai asks the Commissioner to identify the evidence that the input conditions affected domestic prices of aluminium windows and doors, and to apply the Manual's test of material distortion.

The glass market situation

For glass, the finding relies on a United States countervailing duty decision on float glass, including the statement that "higher subsidy rates of 113.34% were assigned to other float glass manufactures". Producers of windows and doors buy processed glass (toughened, laminated and insulated units). The SEF contains no price evidence for processed glass. The Commission's own subsidy investigation identified no glass input program for any selected exporter. Hongtai asks the Commissioner to identify evidence specific to processed glass in the investigation period.

Proper comparison

The SEF finds that "Chinese exporters have been able to achieve greater profits on Australian sales compared to domestic sales" and attributes the difference to the market situation. It does not separate other explanations that it records elsewhere, including the construction downturn and the large number of producers. Yuanjiang "did not sell like goods on the domestic market during the investigation period", so the market situation cannot be the reason its domestic sales are unsuitable. The SEF states that it applies the approach of the panel in *Australia – A4 Copy Paper*, which held that "the 'proper comparison' language calls for an assessment of the relative effect of the particular market situation on domestic and export prices".[19] Australian law does not require that assessment in terms; the Federal Court has said that "s 269TAC does not equate normal value with domestic prices".[20] Having adopted the test, however, the Commission should apply it exporter by exporter.

The glass benchmark

The source of the glass benchmark is described as "the difference between Chinese and Turkish export data" and as "Turkish domestic prices for AWD". The SEF notes that the trade data "produces a FOB term price which is considerate of a seller's SG&A expense, profit and delivery expenses". A free on board price already includes delivery to the port of export. Adding the exporters' own inland freight to that price counts part of the delivery cost twice. The benchmark also does not control for glass thickness and specification. A WTO panel has found "no logical basis on which to conclude that this ipso facto makes them (presumably undistorted) Chinese costs".[21] Hongtai asks the Commissioner to disclose the build-up of delivery costs and units, to remove costs already included in the free on board price, and to control for thickness and specification.

The non-injurious price

The reason for rejecting a selling price basis

The SEF departs from the Manual's preferred basis for the unsuppressed selling price on the ground that "Ventora has been selling ... like goods at a loss for all of the injury period." Two pages later it finds that "Ventora remained profitable throughout the injury period." In chapter 8 it found that "while Ventora remained profitable its profit has decreased throughout the injury period". The reason given for departing from the Manual is contradicted by the SEF's own findings. The Manual states that "in calculating the USP, the Australian industry's weighted average selling price is calculated for a period unaffected by dumping."[22] Hongtai asks that the unsuppressed selling price be based on selling prices, or that a reason consistent with the findings be given.

[17] The Manual, ch 7.
[18] *Dalian Steelforce Hi-Tech Co Ltd v Minister for Home Affairs* [2015] FCA 885, [26] (Nicholas J).
[19] Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, WT/DS529/R, s 7.2.4.2.
[20] *Dalian Steelforce* [2015] FCA 885, [30].
[21] Panel Report, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, WT/DS603/R, para 7.185.
[22] The Manual, s 24.3.

The cost basis chosen

The SEF found that "a weighted average CTMS for the investigation period is not the most appropriate basis", because it "may result in a USP, and consequently a NIP, that does not adequately address the injury". The statute defines the non-injurious price as "the minimum price necessary" to prevent injury. Choosing a cost base because it produces a higher price is aiming at the wrong target. The Manual states that "a weighted average of the most recent verified industry cost to make and sell (CTMS) from the current application will generally be used, with a preference for a one year minimum."[23] Hongtai asks that the Manual's basis be applied.

The profit used

In setting the profit for the unsuppressed selling price, the Commissioner "had regard to the high levels of profit observed by selected exporters in their domestic sales of OCOT during the investigation period." The profit Chinese producers earn in China says nothing about the price the Australian industry needs to avoid injury. The SEF also describes the Chinese domestic market as "depressed because of the market situation". Hongtai asks that the profit be taken from the Australian industry's own results in a period unaffected by dumping, as the Manual contemplates.

Procedural matters

Standing

The SEF's discussion of standing states that "consistent with section 269T(6), the commission's assessment is directed to production or manufacture of like goods in Australia" and that "the commission remains satisfied that the application was supported by a sufficient part". Section 269T(6) provides that "Sundays and public holidays shall ... be counted as days". The correct provision raised by interested parties refers to s.269T(3). The SEF does not decide whether each supporting member carries out a substantial process, and the 55% figure rests on unit estimates of a kind that chapter 5 now treats as unreliable. Section 269TB(6) requires that supporters "account for not less than 25% of the total production or manufacture of like goods in Australia" and for more than half of the production of those expressing a view. Hongtai adopts the submission of EcoEco on standing and asks the Commissioner to restate the numerator and denominator on the value basis now used, to decide the s.269T(3) question for each supporting member, and to correct the reference to s.269T(6).

[23] The Manual, s 24.3.