Australian Government

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS
NO. 301

ALLEGED DUMPING OF CERTAIN STEEL ROD IN COILS EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

15 February 2016

PUBLIC RECORD

CONTENTS

ABBREVIATIONS

$	Australian dollars
ABF	Australian Border Force
ADN	Anti-Dumping Notice
the Act	*Customs Act 1901*
the applicant	OneSteel Manufacturing Pty Ltd
Arrium	Arrium Limited
CFR	cost and freight
China	the People's Republic of China
COGS	cost of goods sold
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	cost to make
CTMS	cost to make & sell
CTS	cost to sell
Dumping Duty Act	*Customs Tariff (Anti-Dumping) Act 1975*
EBIT	earnings before interest and tax
FOB	free on board
FY	financial year
GAAP	generally accepted accounting principles
GOC	Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Hunan Valin	Hunan Valin Xiangtang Iron & Steel Co. Ltd.
Jiangsu Shagang	Jiangsu Shagang Group Co., Ltd
Ministerial Direction	*Ministerial Direction on Material Injury 2012*
NIP	non-injurious price
NV	normal value
OneSteel	OneSteel Manufacturing Pty Ltd
PAD	Preliminary Affirmative Determination
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
RIC	Rod in Coils
the Regulation	*Customers (International Obligations) Regulation 2015*
SEF	Statement of Essential Facts
SG&A	selling, general and administrative costs
T	tonnes
USP	unsuppressed selling price
VAT	value added tax

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This Statement of Essential Facts (SEF) Number 301 has been prepared in response to an application for a dumping duty notice by OneSteel Manufacturing Pty Ltd (OneSteel) in relation to its allegation that steel rod in coils (RIC) exported to Australia from the People's Republic of China (China) at dumped prices has caused material injury to the Australian industry producing like goods.

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base a recommendation to the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary),[1] unless this investigation is terminated earlier, in relation to OneSteel's application.

The Commissioner's findings are based on the information available and may be subject to change if additional information becomes available as the investigation proceeds.

1.2 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901*[2] describes, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Parliamentary Secretary. Section 269TDA describes the reasons upon which the Commissioner must terminate an investigation.

1.3 Application

OneSteel alleges that the Australian industry has suffered material injury caused by exports of RIC to Australia from China at dumped prices. OneSteel alleges that the industry has been injured through:

- price depression;
- price suppression;
- price undercutting;
- lost sales volume;
- lost market share;
- loss of profits;
- loss of profitability;
- less than full capacity utilisation;
- loss of employment;
- reduction of assets employed in the production of the like goods; and
- reduction of capital investment in the production of the like goods.

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[1] On 23 December 2014, the then Minister for Industry and Science delegated his powers and functions under Part XVB of the *Customs Act 1901* to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Department of Industry and Science became the Department of Industry, Innovation and Science. The titles of the Minister and Parliamentary Secretary also changed to the Minister for Industry, Innovation and Science, and the Parliamentary Secretary to the Minister for Industry, Innovation and Science. On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

[2] All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

The Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of RIC from China on 12 August 2015. Public notification of initiation of the investigation was also made in *The Australian* newspaper on 12 August 2015.

Anti-Dumping Notice (ADN) No. 2015/95 provides further details relating to the initiation of the investigation and is available on the Anti-Dumping Commission's (the Commission) website at www.adcommission.gov.au.[3]

1.4 Preliminary affirmative determination

Under subsection 269TD(1)(a), the Commissioner was satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of RIC exported to Australia from China. As such, a preliminary affirmative determination (PAD) was made on 27 November 2015.

Securities have applied to imports of RIC from China entered for home consumption on or after **2 December 2015**. These securities were set at the full level of the dumping margins found at the time. A copy of the PAD is available at www.adcommission.gov.au.

1.5 Investigation process and timeframes

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows, place on the public record a SEF on which the Commissioner proposes to base his recommendations to the Parliamentary Secretary in relation to the application.[4]

In formulating the SEF, the Commissioner must have regard to the application, and any submissions concerning publication of the notice that are received by the Commission within 40 days of the date of initiation of the investigation.[5] The Commissioner may also have regard to any other matters considered relevant.[6]

The SEF was originally due to be placed on the public record by 30 November 2015. However, the Commissioner was granted an extension of time for the publication of the SEF by the Parliamentary Secretary. [7] The Commissioner is now required to place the SEF on the public record by 13 February 2016.[8]

In respect of the investigation:

- the investigation period[9] for the purpose of assessing dumping is 1 July 2014 to 30 June 2015; and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped RIC is from 1 July 2011.

[3] See number 1 on the public record at www.adcommission.gov.au.

[4] Subsection 269TDAA(1)

[5] Subsection 269TDAA(2)(a)

[6] Subsection 269TDAA(2)(b)

[7] Further details of the extension are available in ADN 2015/141 at number 17 on the public record at www.adcommission.gov.au.

[8] As 13 February 2016 falls on a weekend, the due date to publish the SEF is 15 February 2016. Further details of the extension are available in ADN 2015/141 at number 17 on the public record at www.adcommission.gov.au.

[9] Subsection 269T(1)

1.6 Findings and conclusions

The Commissioner has made the following preliminary findings and conclusions based on available information at this stage of the investigation, as explained in greater detail in the remainder of this report.

1.6.1 The goods and like goods (Chapter 3)

The Commissioner considers that locally produced RIC is 'like' to the goods the subject of the application.

1.6.2 Australian industry and market (Chapters 4 and 5)

The Commissioner has found that there is an Australian industry producing like goods which comprises one Australian producer, being OneSteel (the applicant).

The Commissioner considers that the Australian RIC market is supplied from local production by OneSteel and by imports from several countries including China.

1.6.3 Dumping (Chapter 6)

The Commissioner's preliminary assessment of dumping margins is set out in Table 1.

EXPORTER / MANUFACTURER	DUMPING MARGIN
Hunan Valin Xiangtang Iron & Steel Co. Ltd.	32.1%
Jiangsu Shangang Group Co., Ltd	28.2%
Uncooperative and All Other Exporters	53.9%

Table 1: Preliminary dumping margins

1.6.4 Economic condition of the Australian industry (Chapter 7)

The Commissioner considers OneSteel has experienced injury in the form of:

- price depression;
- price suppression;
- reduced profit and profitability;
- reduced revenue;
- reduced return on investment;
- reduced employee numbers; and
- reduced capacity utilisation rates.

The Commissioner considers that the injury experienced is material.

1.6.5 Causation assessment (Chapter 8)

The Commissioner is satisfied that the Australian industry has suffered material injury as a result of dumped exports of RIC from China.

1.6.6 Non-injurious price (Chapter 10)

The Commissioner is satisfied that there is a situation in the market that makes the domestic selling price of RIC in China unsuitable for the purposes of determining normal value under subsection 269TAC(1). Noting this, the Commissioner intends to recommend that the Parliamentary Secretary not have regard to the desirability of fixing a lesser rate of duty.

1.6.7 Proposed measures and securities (Chapter 11)

The Commissioner intends to recommend that anti-dumping measures be applied to all exporters from China and be calculated on an *ad valorem* duty method. Following the publication of this SEF, the amount of the securities being taken in respect of the goods will be increased to the amount of the revised dumping margins in Table 1.

1.7 Conclusion

Based on the information and evidence available, the Commissioner considers that:

- RIC has been exported from China at dumped prices;
- there is an Australian industry producing like goods that is experiencing injury; and
- the dumped goods are causing material injury to the Australian industry.

Under subsection 269TD(1)(a), the Commissioner is satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of RIC exported to Australia from China.

Having regard to subsection 269TD(4)(b), the Commissioner considers that the Commonwealth should require and take securities under section 42 in respect of interim dumping duties that may become payable in relation to RIC exported to Australia from China to prevent material injury to the Australian industry while the investigation continues.

1.8 Final report

The Commissioner's final report and recommendations in relation to this investigation must be provided to the Parliamentary Secretary on or before 29 March 2016.

2 BACKGROUND

2.1 Initiation

The Commissioner initiated this dumping investigation on 12 August 2015 following receipt of an application from OneSteel.

In accordance with subsection 269TC(1), the Commission examined the application and was satisfied that the application complied with the requirements of subsection 269TB(4), that there is an Australian industry in respect of like goods, and that there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

Details on the initiation decision made by the Commissioner are available in ADN 2015/95 and *Consideration Report 301* via the Electronic Public Record (EPR).[10]

2.2 Previous cases

On 17 June 2015, anti-dumping measures were imposed on RIC exported to Australia from the Republic of Indonesia (Indonesia) for all exporters other than PT Ispat Indo, and for all exporters from Taiwan. This followed the Commissioner's dumping Investigation 240 into RIC exported to Australia from Indonesia, Taiwan, and the Republic of Turkey (Turkey).

On 14 May 2015, the Commissioner terminated part of Investigation 240 as it related to exports from Indonesia by PT Ispat Indo and all exports from Turkey.

Anti-dumping measures were imposed on RIC exported from Indonesia and Taiwan as it was found that during the investigation period, these goods were exported at dumped prices which caused material injury to the Australian industry producing like goods, and that continued dumping from Indonesia and Taiwan may cause further material injury to the Australian industry.

Other administrations' investigations have been referred to during this case.

2.3 Preliminary affirmative determination

On 27 November 2015 the Commissioner made a PAD regarding this case. The PAD resulted in the imposition of securities of between 9.5% and 18.4% for any RIC exported to Australia from China.

PAD Report No 301 sets out the reasons for making this determination, and has been placed on the public record.

2.4 Responding to this Statement of Essential Facts

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Parliamentary Secretary.

It is important to note that the SEF may not represent the final views of the Commissioner.

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[10] EPR 301.001 contains the ADN, while EPR 301.002 contains the consideration report. Both documents are available on the website here.

Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses in making his final report to the Parliamentary Secretary. The report will recommend whether or not a dumping duty notice should be published, and the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than 7 March 2016. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.[11]

The Commissioner must report to the Parliamentary Secretary by 29 March 2016.

Submissions should preferably be emailed to operations1@adcommission.gov.au.

Alternatively, they may be sent to fax number +61 3 8539 2499, or posted to:

Director Operations 1
Anti-Dumping Commission
Level 35, 55 Collins Street
MELBOURNE VIC 3000
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record.

A guide for making submissions is available at the Anti-Dumping Commission's web site www.adcommission.gov.au.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available by request in hard copy (phone (02) 6213 7119 to make an appointment), or online at www.adcommission.gov.au

Documents on the public record should be read in conjunction with this SEF.

[11] Subsection 269TDAA(3)

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The Commissioner considers that locally produced steel RIC are like to the goods subject of the application (the goods).

3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, *inter alia*, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods. Subsection 269T(1) defines like goods as:

> *Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration*.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must, however, produce goods that are “like” to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

i. physical likeness;
ii. commercial likeness;
iii. functional likeness; and
iv. production likeness.

3.3 The goods

The goods which are subject of the application (the goods) are:

> *Hot rolled rods in coils of steel, whether or not containing alloys, that have maximum cross sections that are less than 14mm.*
>
> *The goods covered by this application include all steel rods meeting the above description regardless of the particular grade or alloy content.*
>
> *Goods excluded from this application include hot-rolled deformed steel reinforcing bar in coil form, commonly identified as rebar or debar, and stainless steel in coils.*

Further detail regarding this description (including products which are not the goods) can be found in *Consideration Report 301*.

3.4 Tariff classification

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

- 7213.91.00 (statistical code 44)
- 7227.90.90 (statistical codes 42 & 02)

3.5 Like goods

As discussed in the relevant reports,[12] the Commission confirmed that the goods were exported to Australia from China, and that there is an Australian industry which manufacturers like goods.

The Commission has considered the factors outlined at 3.2 above and confirmed the industry produces goods that are "like" to the imported goods.

The consideration of like goods has been subject to a large amount of work by the Commission during the investigation, and the issue has been sufficiently deliberated within previously published reports for this investigation.

The Commission received submissions that there were differences in the production methodology used between various types of rolling mill, and only one type of rolling mill produced goods which were like goods to the exported materials. During the relevant verification process, the visit team identified that both types of rolling mill used by that company had the ability to, and had produced, hot rolled rods in coils of steel of less than 14mm during the investigation period.

As such, due to the broad nature of the goods description which captures all rods in coils of steel with the exception of reinforcing bar in coils or stainless steel in coils, the Commission considers that both production lines may produce like goods, and ensured that relevant information was appropriately verified during the visit.

The Commission has not received any further submissions with regards to like goods.

[12] *Consideration Report 301*, *Preliminary Affirmative Decision Report 301*, *Verification Report Australian Industry OneSteel*, *Verification Report Exporter Hunan Valin*, and *Verification Report Exporter Jiangsu Shagang*, all available on the EPR at www.adcommission.gov.au.

4 THE AUSTRALIAN INDUSTRY

4.1 Preliminary finding

The Commissioner has found that there is an Australian industry consisting of OneSteel that produces like goods in Australia and that those goods are wholly manufactured in Australia.

4.2 Legislative framework

The Commissioner must be satisfied that the "like" goods are in fact produced in Australia. Subsection 269T(2) of the Act specifies that for goods to be regarded as being produced in Australia, they must be wholly manufactured in Australia. Under subsection 269T(3) in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 Corporate, organisational and ownership structure

OneSteel is a wholly owned subsidiary of Arrium Limited (Arrium). Arrium is a listed public company which is listed on the ASX (Code: ARI).

Arrium is segregated into three major organisation units, being Arrium Mining, Arrium Steel, and Arrium Recycling. OneSteel forms part of Arrium Steel.

Further details regarding the corporate, organisational, and ownership structure for OneSteel / Arrium can be found in the Australian Industry Verification report available on the EPR.

4.4 Production process

The process for the production of steel rod in coils is as follows:

- Steel billets are produced in the blast furnace, electric arc furnace or purchased from other producers based on chemical composition and other physical properties.
- The billets are passed through a reheat furnace to ensure they reach sufficient temperature to pass through the rolling mills without damage to the billet or the mill.
- Once reheated, the billets are fed through a series of rolling stands which compress, shape, and lengthen the billet into a narrow rod.
- During this process at several stages before entering the next stand a crop shear operates to straighten the nose of the billet and ensure it will continue to roll smoothly.
- Once the billet has been rolled into the correct circular cross section size, it is dropped over a barrel roll which causes it to change from a straight length into a continuous coil. A single billet will be converted into a single coil.
- This continuous coil is cooled on a conveyor belt, and drops onto a compressing stand to be compressed and tied.
- Once tied, the goods are moved to the dispatch yard for pick up by the customer.

OneSteel maintains the ability to produce billet through both the electric arc furnace and basic oxygen furnace methodology, as well as being able to import billet produced elsewhere for further manufacture into rod in coils.

It is noted that OneSteel maintains sufficient production assets to increase capacity in a short period by increasing its shift structure which would ensure it is able, if required, to meet the entire demand from the Australian market and maintain capacity to meet its export commitments in relation to the goods.

The Commission confirms that OneSteel manufactures goods which are substantially the same as the goods exported from China to Australia.

4.5 Production Facilities

The Commission notes that OneSteel operates both a blast furnace and several electric arc furnaces.

Ownership and operation of a blast furnace has significant impacts on the economics of steel making for the following reasons:

- They can operate 24 hours a day, 7 days a week.
- Blast furnaces are generally large capacity steel works.
- They can produce steel from iron ore, without relying on recycled scrap steel.
- They have significant costs related to site rehabilitation when closed.
- They operate most efficiently when capacity utilisation is above 80%.
- Stopping production is a time consuming process, and is likely to require expensive relining processes prior to recommencing production.
- Relining costs range from the tens of millions of dollars up to several hundred million dollars depending on the size of the furnace.[13]
- Post relining, relighting the furnace incurs significant additional costs.

4.6 Conclusion

The Commissioner finds that:

- there is an Australian industry producing like goods in Australia, consisting of OneSteel;
- OneSteel is the sole manufacturer in Australia of like goods for the Australian market; and
- the like goods are wholly manufactured in Australia.

[13] Hatch, Bluescope No. 5 Blast Furnace Reline, disclosed a $372m project to reline a blast furnace in Australia. Information sourced online from www.hatch.com.au.

5 AUSTRALIAN MARKET

5.1 Preliminary finding

The Commissioner has found that there is an Australian market for steel RIC which is estimated at between 550,000 tonnes (T) and 630,000 T per year during the injury analysis period.

The Australian market is primarily supplied by the domestic production of like goods by OneSteel, and imports from China, New Zealand, Indonesia, Taiwan, and other countries.

Demand for the goods is price sensitive at the individual order level due to the commoditised nature of the goods and a high degree of substitutability between domestically produced goods and imports.

The Commissioner's view on the Australian market has not changed since the Preliminary Affirmative Decision was published on 1 December 2015.[14] Chapter 5 provides a summary of those findings.

The Commission notes that imports of the goods from China significantly increased in the 2014 calendar year. Prior to this period, imports were primarily sourced from Indonesia, Taiwan and Turkey (Investigation 240 refers) and findings were made that these imports included dumped goods. As such, the Commission considers that there is a limited period when the Australian market was not affected by dumping.[15]

5.2 Market structure

OneSteel submitted in its application estimates of the Australian market size and its share of the RIC market. Following the initiation of the investigation, the Commission used data from the Australian Border Force (ABF) import database to build a more detailed understanding of the market.

The market is primarily (80% or greater) supplied in Australia by OneSteel, or via imports which make up the balance of the market.

As RIC is an intermediate good, the demand within the market is driven by further manufacturers (generally reinforcing mesh or wire manufacturers).

The good is commodity like in nature, and though the quantity demanded is set by the market (generally driven by construction projects) there is a high level of price sensitivity for single orders.

OneSteel stated that its sales to related parties remain subject to market based price forces. The Commission tested this assertion and confirmed that market pricing exists within both related and unrelated markets.

5.3 Market size

The Commissioner found that there is an Australian market for RIC which is estimated at between 550,000 T and 630,000 T per year during the injury analysis period.

The Commission maintains that the major demand driver for the goods is building and construction activity.

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[14] Full details of that report can be found here.

[15] Australian Anti-Dumping Investigation 240, Steel Rod in Coils exported from the Republic of Indonesia, Taiwan, and the Republic of Turkey.

The Commission has found that the market is currently growing and recovering from a slowdown at the start of the injury analysis period. This view is supported by independent research compiled by IBISWorld.[16] The IBISworld report found that the market for iron and steel in Australia, which RIC is a subset of, is expected to grow by 1.1% per year until 2021 on average due to continuing infrastructure investment.[17]

5.4 Approach to market

The Commission has considered the differing ways in which suppliers, including OneSteel and importers, attract customers within the Australian market. Several channels have been identified through the investigation to date, including:

- Direct contact based on a long term relationship;
- Through an agent who operates on commission to provide introductions; and
- Through a trading entity which may or may not be related to the production facility who will forward customer orders.

5.5 Importers

Following the initiation of this investigation, the Commission identified the importers of RIC from China. Two of these importers were considered to be ‘major’ importers and accounted for 95% of imports of RIC from China during the investigation period.

The Commission sent importer questionnaires and received responses from the following importers:

- Stemcor Australia Pty. Ltd.(Stemcor); and
- Vicmesh Pty Ltd.

The data submitted by Vicmesh Pty Ltd and Stemcor has been verified by the Commission in terms of its relevance, completeness and accuracy. Both importers cooperated with the investigation and provided their internal records and source documents for their import and sales transactions.

5.5.1 Price sensitivity

The Commission has analysed information collected from the Australian industry and importers and found that the Australian rebar market shows significant price sensitivity and that price is the major criteria in customers’ purchasing decisions.

The Commission has also found that product and brand differentiation is minimal, and that while steel is graded, there is no specific certification which applies to RIC within Australia.

[16] IBISWorld Business Environment Report, F3325 - Domestic price of iron and steel, July 2015
[17] Ibid, p3.

6 DUMPING INVESTIGATION

6.1 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. In order to determine whether dumping has occurred, the export price and normal value of the goods must be compared.[18] The export price and normal value of goods are determined under section 269TAB and section 269TAC respectively.

This chapter explains the findings of the investigation by the Commissioner into whether or not rebar was exported from China at dumped prices during the investigation period.

6.2 Preliminary finding

The Commissioner made a PAD on 27 November 2015. As a result, securities have applied to imports of RIC from China entered for home consumption on or after 2 December 2015. Further details regarding the PAD are available online at www.adcommission.gov.au.

The Commission undertook verification of exporter information to test the variable factors for the investigation.

The Commissioner has identified that a particular market situation applies to the domestic market for RIC within China. As such, the Commissioner has calculated dumping margins based on the replacement of costs at the steel billet level, replacing the verified cost data with an appropriate index.

This led to revised dumping margins as follows:

EXPORTER / MANUFACTURER	PAD DUMPING MARGIN	SEF DUMPING MARGIN
Hunan Valin Xiangtang Iron & Steel Co. Ltd.	9.5%	32.1%
Jiangsu Shangang Group Co., Ltd	13.1%	28.2%
Uncooperative and All Other Exporters	18.4%	53.9%

6.3 Cooperative exporters

At the commencement of the investigation, the Commission contacted all known exporters of the goods and each identified supplier of the goods within the relevant tariff subheadings for RIC as identified in the ABF's import database and invited them to complete an exporter questionnaire.

The Commission received substantially complete exporter questionnaire responses from the following cooperative exporters:

- Hunan Valin;
- Jiangsu Shagang;

The Commission undertook verification visits to both exporters. Both exporters are considered to have cooperated with this investigation.

[18] Subsection 269TACB(1)

6.4 Uncooperative exporters

Subsection 269T(1) provides that an exporter is an 'uncooperative exporter', where the Commissioner is satisfied that an exporter of the goods did not give the Commissioner information that he considers to be relevant to the investigation, within a period he considers to be reasonable or where he is satisfied that an exporter significantly impeded the investigation.

At the initiation of this investigation, the Commission wrote to all known exporters of RIC from China and invited them to participate in the investigation by providing a response to the exporter questionnaire.

Exporters of the goods from China who have not provided exporter questionnaire responses are considered to be uncooperative exporters.

6.5 Market Situation Finding

In its application, OneSteel submitted that the domestic selling prices of RIC in the Chinese domestic market are not suitable for establishing normal values under section 269TAC(1) for RIC exported to Australia from China.

OneSteel's claims in relation to China allege that RIC prices in China are artificially lower, or not substantially the same as they would be if they were determined in a competitive market.

After having considered these allegations, the Commission has formed a preliminary view that there is a particular market situation in China and the Chinese domestic RIC sales are not suitable for use in determining normal values under subsection 269TAC(1).

The Commission's preliminary assessment of a particular market situation in China for RIC is in **Appendix 1**.

6.6 Benchmarks for competitive market costs

As the Commission considers that there is a particular market situation in China, normal value may be determined on the basis of a cost construction[19] or third country sales.[20]

The Commission considers that influence of the Government of China (GOC) in the Chinese RIC market would similarly affect the selling prices of RIC by Chinese exporters to third countries. As such, the Commission considers that third country sales are not suitable for determining normal value.

Consequently, normal values were constructed under subsection 269TAC(2)(c) and, as required by subsections 269TAC(5A) and (5B) in accordance with the conditions of sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation).

Regulation 43(2) requires that if an exporter keeps records in accordance with generally accepted accounting principles, and those records reasonably reflect competitive market costs associated with the production of like goods, then the cost of production must be worked out using the exporter's records.

[19] Subsection 269TAC(2)(c)
[20] Subsection 269TAC(2)(d)

As discussed in Appendix 1, the Commission considers that the significant influence of the GOC has distorted prices in the steel industry and RIC market in China. The Commission also considers that various plans, policies and taxation regimes have also distorted the prices of production inputs including (but not limited to) the raw materials used to make steel in China and render them unsuitable for cost to make and sell (CTMS) calculations.

The Commission considers that direct and indirect influences of the GOC affect Chinese manufacturers' costs to produce steel billet. The Commission has found that steel billet costs comprise 80 to 85% of RIC CTMS.

Accordingly, to account for the effects of the GOC's influence, the Commission has replaced Chinese manufacturers' steel billet costs with appropriate competitive market costs for steel billets. The Commission assessed the appropriate competitive market cost in accordance with the World Trade Organization (WTO) Appellate Body findings, which suggest the following methods (in order of preference):

- private domestic prices;
- import prices; and
- external benchmarks.

Private domestic prices

The Commission considers that private domestic prices of steel billets are equally affected by government influence and therefore do not reflect competitive market costs. The Commission's assessment of data submitted by cooperating exporters show that there is no significant difference between RIC prices from state owned enterprises (SIE) and private suppliers.

Import prices

Based on the data supplied by cooperating exporters and gathered by the Commission, the Commission considers that RIC import prices in China are not suitable as a benchmark to reflect competitive market prices due to the lack of import penetration of steel billets and the likelihood that import prices were similarly affected by the GOC influence on domestic prices.

External benchmarks

The Commission considers that an external benchmark would be the most appropriate reflection of competitive market costs. It considers an appropriate benchmark for steel billet costs in China is the average monthly prices paid in the East Asia region for billet imports. McGraw Hill Financial Service (Platts) publishes East Asian steel billet import prices at cost and freight (CFR) terms. The published prices are for billets that are SD290, Q235 or equivalent quality billets delivered to a main East Asian port.

The Commission notes that there are no reliable, published steel price indexes for the Australian standard billet that is used to manufacture the goods. The Commission acknowledges that there are some physical, chemical and alloy dissimilarities between the billets Chinese exporters use for the production of Australian standard RIC and the selected benchmark billets. However, the Commission considers that the selected billet prices are conservative and it is unlikely that the billets in East Asian index price would cost more to manufacture a billet in line with the commonly used Australian grades for RIC.

Consequently, normal values were constructed under subsection 269TAC(2)(c) and in accordance with the conditions of Regulation 43,44 and 45.

6.6.1 Submissions received in relation to selection of benchmarks for competitive costs

It has been submitted by OneSteel that the Commission should use the billet index representing prices from Turkey. The Commission considers that the South East Asian price is the most appropriate benchmark reflecting a closer geographic match, delivery costs of raw materials and is a better match for substitution of costs.

In addition, export controls within China such as export taxes and reduced value added tax (VAT) rebates have, in the Commissions view, prevented significant downward pressure being applied by Chinese billet exports to the prices recorded for the East Asian Billet benchmark. This view is supported by the reduced rate of billet exports identified by the OECD.[21]

The Commission considers that without the influence of the GOC, Chinese billet prices would not be significantly lower than the widely accepted international benchmark for the same region.

The Turkish manufacturers also predominantly produce through the EAF method which uses ferrous scrap as the main input material, rather than iron ore and coking coal, which are the main inputs from Chinese exporters. The Turkish billet prices would also need to be adjusted to reflect geographic separation between the markets.

OneSteel's recommendation to utilise the Turkish Billet Index is not accepted as a more suitable index has been identified, being the East Asian Billet index.

6.6.2 Submission received regarding uplift on non-market raw materials

It has been submitted by representatives of exporters that the Commission should only apply the uplift to the cost of billet to that proportion of billet that is produced from raw materials sourced from China.

The Commission considers that this approach does not capture the influence of the GOC on other costs associated with the conversion of raw materials to steel billet and ultimately RIC.

The Commission has substituted the cost to manufacture the billet utilised to make RIC as reported by exporters with a benchmark billet cost. The Commissioner considers that this approach best captures all the influence of the GOC.

The Commission also considers that the cost of billet in this benchmark will reflect the cost of raw material sourced from international markets, and as such does not require the Commission to arbitrarily or otherwise select raw material sources as the defining factor in allocating costs of production.

The Commission considers that the billet benchmark will also reflect the world benchmark prices for raw materials which are utilised to produce billet, and as such, the substitution of the benchmark billet costs will accurately reflect, rather than artificially inflate, genuine raw material costs purchases at market.

The submission that a substitution apportionment methodology be applied is not accepted by the Commission.

[21] de Carvalho, A. and N. Sekiguchi (2015), "The structure of steel exports: Changes in specialisation and the role of innovation", OECD Science, Technology and Industry Working Papers, 2015/07, OECD Publishing, Paris

6.6.3 Determination of competitive market costs for billets

All cooperating exporters are integrated manufacturers of steel products, including RIC. As such, these exporters do not purchase steel billet, but manufacture it themselves from raw materials including iron ore, coke or coking coal and scrap steel. However, as noted in Appendix 1, the GOC influences in the iron and steel industry are wide ranging and affect competitive market supply of raw material inputs for steel billet. Therefore, the Commission considers it reasonable in respect of integrated producers to substitute the exporters' steel billet costs with benchmark steel billet costs.

The Commission recognises that the accounting records of the exporters do not reflect competitive market costs due to the influence of the GOC on the Chinese steel market.

As such, the Commission considers it reasonable in respect of integrated producers to substitute the exporters' steel billet costs with benchmark steel billet costs.

In the dumping margin calculations for this SEF, the Commission substituted the cooperating exporters' fully absorbed steel billet cost to make (CTM) with the corresponding East Asia CFR import billet price for the month, minus a verified average amount of profit that Chinese billet manufacturers earn on their billet sales based on the best available information, which is a verified weighted average profit figure from billet sales in China over the investigation period as found in case 300.[22] This amount was utilised as it represents the best available verified information regarding the profitability of billet sales in China over the same timeframe.

In order to determine the amended competitive market costs for steel billet for Chinese exporters, the Commission replaced the cooperating exporters' monthly fully absorbed steel billet CTM values with the monthly free-into-store level benchmark steel billet prices (East Asia CFR import as reported by Platts) and removed profit as per the previous paragraph to arrive at a market competitive cost to make the billet that was consumed in the production of each model of RIC. In each case, substitution of this benchmark resulted in an uplift to exporters' billet costs. That is, the actual steel billet costs incurred by RIC exporters for steel billets were lower than the benchmark amount.

From this stage, the exporters' normal values were constructed based on their own recorded costs to convert billet to RIC, and their selling, general and administrative (SG&A) costs were added. Adjustments as necessary were made for transport costs on a per tonne basis to move the goods from the factory to port, the profit figure derived by the company during the ordinary course of trade was added, and a VAT adjustment to reflect the non-rebated VAT cost percentage payable on exports was made to reflect the final normal value.

6.6.4 VAT Adjustment Submission

The Commission included an adjustment in the PAD reflecting the non-refundable VAT cost for exports. This adjustment was based on the difference in VAT rates for normal supply and the rate of VAT refund for export over the investigation period.

A submission was received which requested the Commission reflect the refunded part in addition as an adjustment to the export prices or normal values. The Commission analysed the impact mathematically.

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[22] This amount was obtained and verified as part of the Commission's investigation 300 into rebar exported from China. The Commissioner considers that this amount is accurate and relevant to this investigation given the alignment in investigation periods, the material in question (billet) is substantially the same input for both goods, and the processing is consistent between the goods.

The Commission found that making an adjustment for the VAT rebate value received would only be appropriate if the full VAT cost was also recognised. Effectively, to equitably apply the 9% Chinese export VAT rebate, the Commission considers it would include the full 17% VAT amount and then reduce the adjustment based on the value of the VAT rebate. By making a single adjustment of 8% for the periods where the rebate was available, the Commission considers it has come to the same outcome.

No further information was provided by exporters demonstrating that the residual export VAT was incorrect or required a lesser adjustment.

6.7 Hunan Valin

6.7.1 Production Facilities and Verification

Hunan Valin provided a response to the Commission's exporter questionnaire, and subsequently the Commission sent a visit team to Hunan Valin during December 2015 to undertake a detailed verification of the information disclosed in its exporter questionnaire.

The visit team toured the facilities, viewed inventory levels and confirmed that Hunan Valin was an integrated producer of the goods under consideration.

A detailed report covering the visit findings is available on the EPR.

6.7.2 Export Price

As noted in the exporter verification report for Hunan Valin, the Commissioner is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter.

Therefore the export price for Hunan Valin was calculated under subsection 269TAB(1)(a). The export price is therefore the price paid or payable of the goods exported to Australia less transport charges after exportation.

6.7.3 Normal Value

As described above, the Commissioner's preliminary view is that there is a situation in the Chinese market such that sales in that market are not suitable for use in determining the normal value under subsection 269TAC(1). The Commission has therefore utilised subsection 269TAC(2)(c) to construct the normal value.

The cost to produce is to be worked out using section 43 of the Regulation, as discussed above this reflects the substituted billet costs, SG&A costs recorded in the exporter's records under subsection 44(2) of the Regulation, and a profit rate reflecting Hunan Valin's domestic profit for sales of RIC made in the ordinary course of trade under subsection 45(2) of the Regulation.

To ensure the comparability of normal values to export prices noting that normal value was ascertained under subsection 269TAC(2)(c), the Commission considers that the following adjustments are required for maintaining price comparability pursuant to subsection 269TAC(9):

Adjustment type	Description
Export inland freight, handling and port charges	**Add** an amount for export inland freight, handling and port charges.
Non-refundable VAT	**Add** the amount of non-refundable portion of VAT on exports

VAT adjustments were recognised as per subsection 269TAC(9). As the VAT liability is incurred on export sales, the Commission treats this liability as having influenced the export price due to the high absorbed cost of the goods liable to VAT.

The Commission calculated the adjustment based on the difference in VAT rates for normal supply and the rate of VAT refund for export over the investigation period. No information was provided by Hunan Valin demonstrating that the residual export VAT was incorrect or required a lesser adjustment.

6.7.4 Market Situation Impacts

As described in Appendix 1, the Commission preliminarily considers that the significant influence of the GOC has distorted prices in the RIC market in China.

As such, the Commission has calculated the CTM using an appropriate benchmark for billet prices as noted at 6.6 above, by substituting costs.

A full reconstruction of this method is attached under **Confidential Appendix 2**.

6.7.5 Verified Information

The visit team verified both domestic sales and cost data when generating a normal value.

The Commission identified errors in some of the exporter questionnaire response data supplied during the verification process, and these errors were amended. This led to increases for certain cost figures, which flowed through to a recalculated profit figure which reflects a verified profit amount.

It is this verified profit amount which was utilised in the calculation of the appropriate profit amount to be included in the normal value calculated under subsection 269TAC(2)(c).

6.7.6 Preliminary Dumping Margin

The Commission has calculated the preliminary dumping margin for Hunan Valin at **32.1%**. The full calculations are attached at **Confidential Appendix 2**.

6.8 Jiangsu Shagang

6.8.1 Production Facilities and Verification

Jiangsu Shagang provided a response to the Commission’s exporter questionnaire, and subsequently the Commission sent a visit team to Jiangsu Shagang during December 2015 to undertake a detailed verification of the information disclosed in their exporter questionnaire response.

The visit team toured the facilities, viewed inventory levels and confirmed that Jiangsu Shagang was the producer of the goods under consideration.

A detailed report covering the visit findings is available on the EPR.

6.8.2 Export Price

During the investigation period Jiangsu Shagang exported the goods to an unrelated company listed in the B-4 Australian sales spreadsheet. The visit team is of the opinion that;

- the goods have been exported to Australia otherwise than by the importer; and
- the goods have been purchased by the importer from the exporter.

However, due to a unit price mark-up made by a related party to cover the administration cost associated with issuing the export sale paper work, the Commission recommends that the export price of the goods be established under subsection 269TAB(1)(c), being a price that the Parliamentary Secretary determines having regard to all the circumstances of the exportation.

6.8.3 Normal Value

As described above, the Commissioner's preliminary view is that there is a situation in the Chinese market such that sales in that market are not suitable for use in determining the normal value under subsection 269TAC(1). The Commission has utilised subsection 269TAC(2)(c) to construct the normal value.

The cost to produce is to be worked out using section 43 of the Regulation, as discussed above this reflects the substituted billet costs, SG&A costs recorded in the exporter's records under subsection 44(2) of the Regulation, and a profit rate reflecting Jiangsu Shagang's domestic profit for sales of RIC made in the ordinary course of trade under subsection 45(2) of the Regulation.

To ensure the comparability of normal values to export prices noting that normal value was ascertained under subsection 269TAC(2)(c), the Commission considers that the following adjustments are required for maintaining price comparability pursuant to subsection 269TAC(9):

Adjustment type	Description
Export inland freight, handling and port charges	**Add** an amount for export inland freight, handling and port charges.
Non-refundable value-added tax (VAT)	**Add** the amount of non-refundable portion of VAT on exports

VAT adjustments were recognised as per subsection 269TAC(9). As the VAT liability is incurred on export sales, the Commission treats this liability as having influenced the export price due to the high absorbed cost of the goods liable to VAT.

The Commission calculated the adjustment based on the difference in VAT rates for normal supply and the rate of VAT refund for export over the investigation period. No information was provided by Jiangsu Shagang demonstrating that the residual export VAT was incorrect or required a lesser adjustment.

6.8.4 Market Situation Impacts

As described in Appendix 1, the Commission preliminarily considers that the significant influence of the GOC has distorted prices in the RIC market in China.

As such, the Commission has calculated the CTM using an appropriate benchmark for billet prices as noted at 6.6 above, by substituting costs.

A full reconstruction of this method is attached under **Confidential Appendix 3**.

6.8.5 Verified Information

The visit team verified both domestic sales and cost data when generating a normal value. There were errors recognised during the verification when compared to the exporter questionnaire response which were corrected as part of the process. This led to increases for certain cost figures, which flowed through to a recalculated profit figure which reflects a verified profit amount.

It is this verified profit amount which was utilised in the calculation of the appropriate profit amount to be included in the normal value calculated under subsection 269TAC(2)(c).

6.8.6 Preliminary Dumping Margin

The Commission has calculated the preliminary dumping margin for Jiangsu Shagang at **28.2%**. The full calculation spreadsheets are available at **Confidential Appendix 3**.

6.9 Uncooperative and all other dumping margins

As the Commissioner was satisfied that all exporters (except for Hunan Valin and Jiangsu Shagang) did not provide the Commissioner with the information he considered relevant to the investigation within a reasonable period of time, all other exporters are being treated as uncooperative exporters as defined in subsection 269T(1).

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. The Act specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3) and normal values are to be calculated under subsection 269TAC(6), being amounts determined by the Parliamentary Secretary having regard to all relevant information.

The Commission has therefore determined an export price pursuant to subsection 269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest of the weighted average export prices of those that were established for cooperating exporters in the investigation period.

The Commission has determined normal value for the uncooperative exporters pursuant to subsection 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest of the weighted average normal values that were established for the cooperating exporters in the investigation period.

The normal values include those adjustments associated with the application of substituted billet prices in line with the Commissioner's finding of a particular market situation for the domestic market of Chinese RIC.

This resulted in a dumping margin of **53.9%**. Further detail regarding the Commission's calculations for uncooperative and all other exporters can be found in **Confidential Appendix 4**.

6.9.1 The Commission's assessment

The Commission has assessed that RIC exported to Australia from China by:

- Hunan Valin; and
- Jiangsu Shagang

was at dumped prices during the investigation period.

The Commission has found that the volume of dumped goods was not negligible during the investigation period, as Chinese dumped imports represent greater than 3% of total imports of the goods.[23]

A summary of the Commission's assessment of dumping margins is set out in Table 2.

[23] Subsections 269TDA(3) and 269TDA(4).

EXPORTER / MANUFACTURER	DUMPING MARGIN
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	32.1%
Jiangsu Shangang Group Co., Ltd	28.2%
Uncooperative and All Other Exporters	53.9%

Table 2: Dumping margins

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Preliminary finding

The Commissioner has preliminarily assessed that the Australian industry producing like goods has suffered injury in the form of price depression, price suppression, reduced profits, reduced profitability, and decreased employment.

The Commissioner's preliminary assessment is that the injury suffered is material.

7.2 Introduction

This chapter outlines the economic condition of the Australian industry and an assessment as to whether the Australian industry has suffered injury.

In its application, OneSteel claimed that the Australian industry has suffered material injury caused by RIC being exported to Australia from China at dumped prices. OneSteel claimed that the injurious effects of dumping have been:

- price suppression;
- price depression;
- lost sales volume;
- loss of market share;
- reduced capacity utilisation;
- declining employment;
- reduced profit; and
- reduced profitability.

Consideration Report 301 advised that the Commission would examine the Australian market and the economic condition of the Australian industry from 1 July 2011 for the purposes of injury analysis. Under subsections 269TG(1) and (2), one of the matters that the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods.

The following analysis relies on the verified sales and cost data of the Australian industry, data provided by importers, exporters, and the ABF import data available to the Commission.

7.2.1 Injury findings in the PAD

In the PAD, the Commissioner made a preliminary finding that OneSteel has experienced injury in the form of:

- price suppression;
- price depression;
- reduced profit; and
- reduced profitability.

The Commissioner concluded that this injury is material.

In the PAD, no analysis was conducted on whether OneSteel had experienced injury in the form of other economic factors or volume based injury.

The Commission has received no submissions in response to the PAD regarding injury.

In this SEF, analysis of injury claimed including other economic factors, volume, and reconsideration price and profit based injury forms has been conducted. A copy of the PAD is available at www.adcommission.gov.au.

7.3 Approach to injury analysis

As noted in the Australian Industry visit report, the Commission is satisfied that the cost and sales data provide by the applicant are reasonably complete, relevant and accurate.

Injury analysis has been undertaken by reviewing data available publicly, information from the ABF database, importers and the applicant.

The injury analysis has been undertaken in recognition of several key factors which impact on the market:

- RIC is a commodity type product;
- RIC is an intermediate manufacturing input and is generally not sold to the public without being subject to further manufacture;
- There is a high level of substitutability between suppliers for the product due to the commoditised nature of RIC;
- The efficient creation of iron and steel using blast furnaces requires an effective minimum production level to be maintained by Australian Industry;
- The preponderance of blast furnaces in China also generates an effective minimum production level within China domestically; however, due to rapid expansion there is a significant overcapacity in China;
- The market in Australia is price sensitive;
- Any excess production of RIC can be warehoused, however maintaining inventories can generate significant holding costs; and
- Demand drivers outlined above, being primarily construction and infrastructure projects.

7.4 Use of confidential data

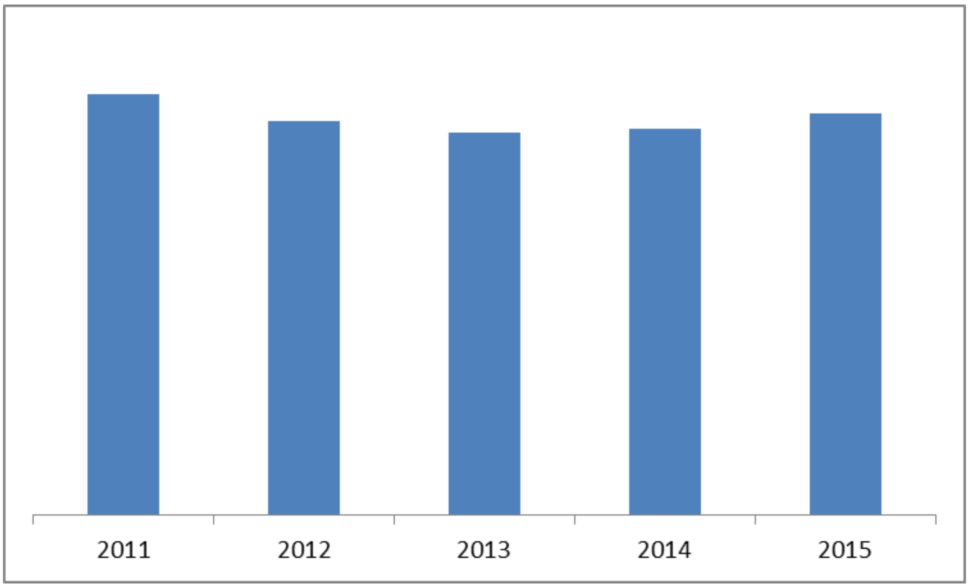
The Commission has had reference to confidential data for the purposes of the injury and causation analysis considered by Chapters 7 and 8 of this report. The more detailed, confidential data analysis is included in **Confidential Appendix 5 – Injury and Causation analysis**.

7.5 Volume effects

The Commission considered volume based injury in the Australian Industry visit report, available on the website www.adcommission.gov.au.

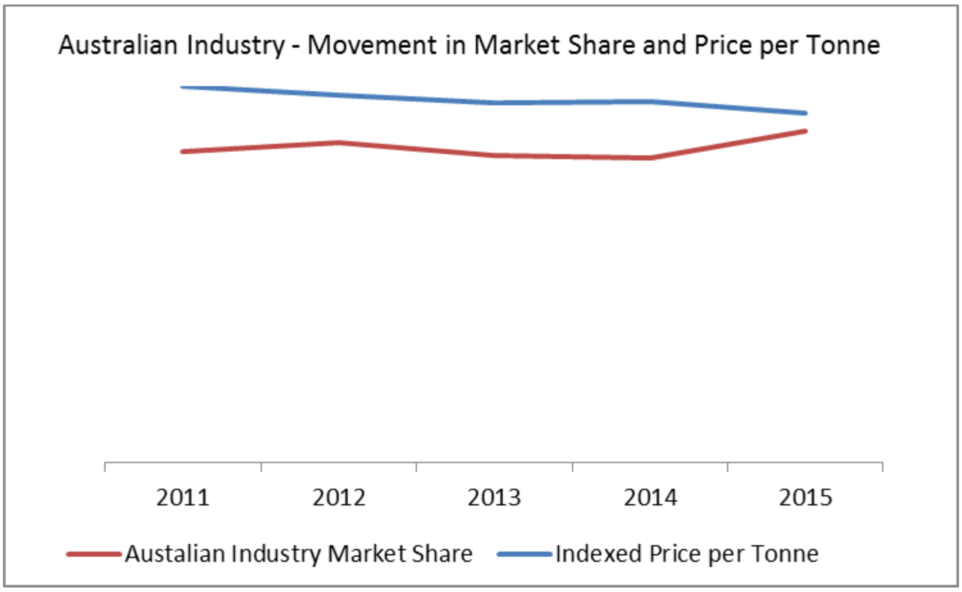
The Commission has consolidated the production amounts from the Australian industry with ABF import data. Based on the consolidated data, the Commission has calculated a market size of between 550,000 tonnes and 630,000 tonnes per financial year. The size of the market fell from 2011 to 2013, and has been recovering volume during financial years 2014 and 2015.

Graph 1 demonstrates that while the size of the RIC market has fallen slightly since year ended 30 June 2011, there has been a steady recovery into 2015.



Graph 1: Australian RIC market Volume by financial year

OneSteel consistently holds over 80% of the total Australian market for RIC. Graph 2 identifies that OneSteel has increased its total share of the market over the period, though the price received over the same period has declined.



Graph 2: OneSteel movement in market share and price

OneSteel's market share increased slightly in 2012, before falling between 2013 and 2014, and recovering in 2015. This stabilisation and increase in market share align to a time where the price per tonne has, on average, reduced.

OneSteel provided a specific market intelligence tool which estimated potential sales lost by comparing forecast demand and orders from customers. This tool has demonstrated gaps where OneSteel believe sales have been lost to lower priced Chinese imports.

OneSteel argued that, based on the Chinese price offers into the market being consistently the lowest, it was likely that displaced volumes were due to imports sourced from China.

The Commission notes that OneSteel maintained a significant share of the overall market which allowed them to develop a greater insight into their customers' needs. The accuracy of the market intelligence could be impacted by a range of factors beyond potentially dumped goods such as a reduction in demand for RIC. While OneSteel suggested that the missing orders were replaced with dumped Chinese RIC, the Commission considers the specific source of the goods which were substituted for OneSteel RIC was not directly demonstrated.

The Commission considers that OneSteel's market share has grown throughout the injury investigation period. During this period, the market itself has stabilised and began growing.

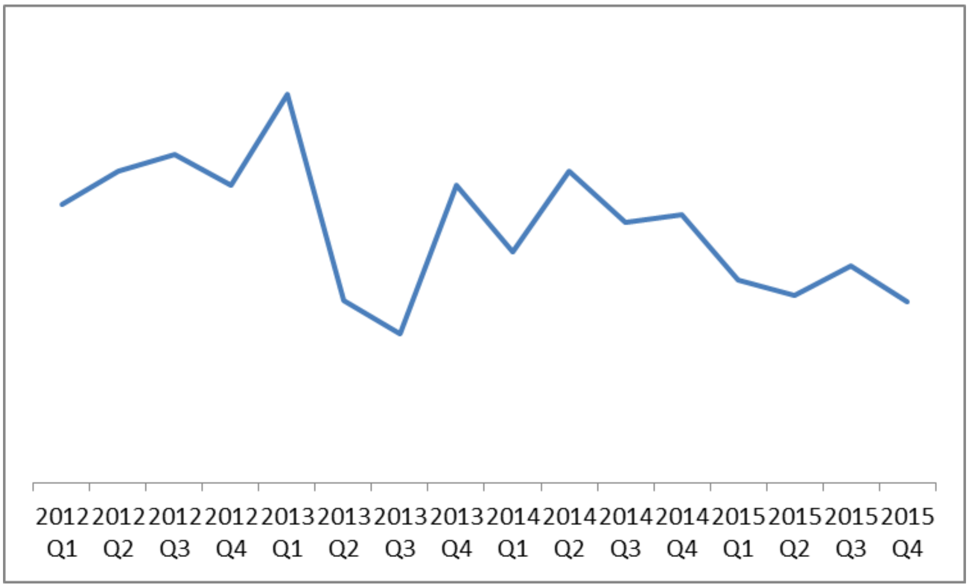
The Commission notes that OneSteel competes on price, in part due to the economics of maintaining an effective level of operation from its blast furnace and steel making assets.

The Commission has not yet identified sufficient evidence to support the claimed volume based injury.

7.6 Price depression and suppression

The Commission considered price depression and suppression as part of the Australian Industry verification visit. The findings of the visit team are as follows.

Price depression occurs when a company, for some reason, lowers its prices.



Graph 3: Changes in OneSteel revenue per tonne since 2012 Q1

The graph demonstrates that since the start of the Q1 2014 the market has shown indications of significant price pressure at several times. The most recent price fall trend aligns with the commencement of Chinese imports from Q4 2014 onwards. There has been a sustained reduction in price relative to prior years. The Commission has identified that OneSteel has been injured through price depression.

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be a reduction in a positive margin, or a continued negative margin between prices and costs.

A full assessment and analysis of price suppression and depression are included in **Confidential Appendix – Injury and Causation Analysis**.

The Commission considers that the Australian industry has suffered price depression and suppression injury.

The Commission had specific regard to the verified revenue generated and verified cost to make and sell for the entire investigation period, with the view that a normal business unaffected by dumping would look to increase prices to, at a minimum, cover its cost to make and attempt to maximise profits.

This is demonstrated by an extended period where prices were not sufficient to cover the fully absorbed CTMS the goods over the injury analysis period. This information demonstrated the price suppression and depression suffered by the Australian industry.

The Commission analysed the exporter, importer, CRE, and applicant information, and has found that since entering the Australian market, Chinese prices for RIC have been consistently the lowest.

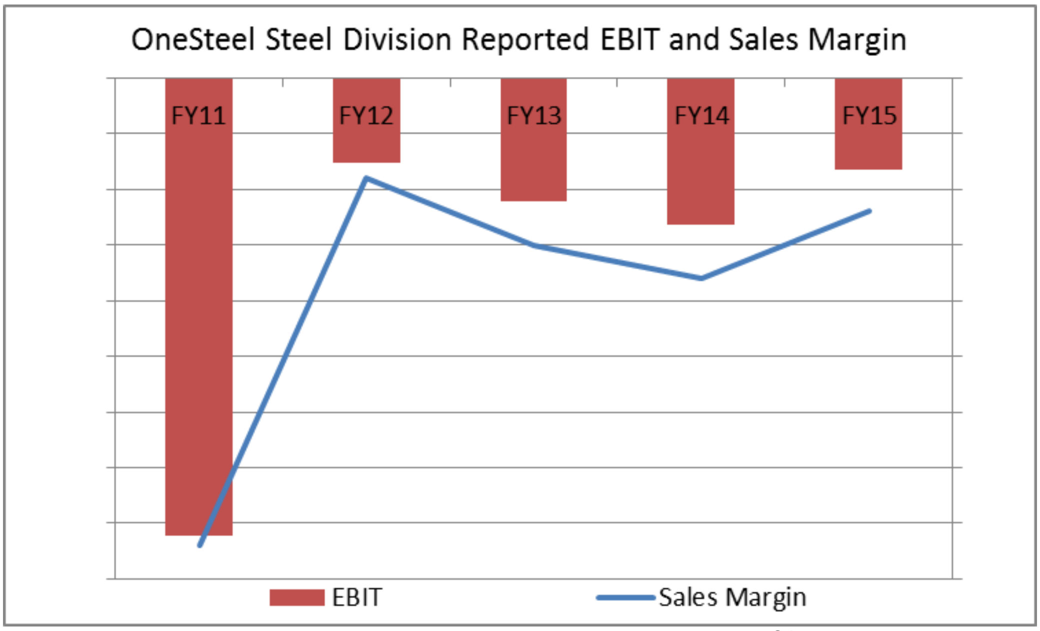
7.7 Profits and profitability

OneSteel pointed to the cost improvement initiatives that it has implemented over the injury analysis period and said that without those initiatives profits and profitability would have been significantly worse than verified. OneSteel said that it was not meeting the target benchmark return on profit within the Arrium group due to the reduced price and volume effects it alleged.

OneSteel stated that it competes on price and must do so to maintain production volume. This position was verified through analysis of OneSteel's pricing mechanism and its effectiveness at maintaining market share.

The Commission has found that OneSteel's attempts to maintain volume have had an impact on profits and profitability as OneSteel has been forced to reduced prices to remain competitive. This has had a demonstrated impact through the price suppression, price depression, and undercutting as identified, and has resulted in the price of RIC being lower for the same level of production than it would be otherwise.

OneSteel's financial reporting is separated into three divisions. OneSteel's RIC is produced and sold by, and the financial results are captured within, the Steel division.



Graph 4: OneSteel Steel Division results[24]

[24] Sourced from Arrium 2015 Financial Report, page 31.

As can be seen for the injury period, the Steel division has not reported a positive sales margin or EBIT for the segment. The price depression and suppression have directly impacted on the net revenue, and total profit generated. The impact of the price effects has directly led to continued reduction in profits for the segment.

When profitability is restricted to the goods under consideration, the aggregated loss is demonstrated above. Even accounting for the recent improvement in profitability, the losses are compounding.

The Commission considers that the impacts on price, profits, and profitability are sufficient to indicate that injury has occurred, and is likely to continue to occur.

7.8 Other economic factors

The Commission has considered the following economic indicators in addition to the injury factors above.

Assets

Assets, measured at the depreciated value, declined from 2012 to 2015, beyond the amounts reinvested in asset sustainability and growth.

Capital investment

Total Rod & Bar division capital spend has been focused on sustainability of current equipment, with limited funds utilised for growth expenditure due to the pressure on the business. There has been an increase in capital investment from 2012 to 2015 however the increased expenditure is offset by increased depreciation and impairment of assets within the Rod & Bar division.

Capacity and capacity utilisation

Capacity has remained stable, but capacity utilisation has fallen over the period due to a reduction in shifts rostered.

Capacity utilisation has stayed relatively stable over the period 2012 to 2015, with like goods accounting for between 30% and 35% of capacity and other goods taking total capacity utilisation to between 87% and 92%.

The total potential capacity for the products is significantly larger, but currently limited by the shift structures with which the two rolling mills operate.

Employment

Employee numbers have reduced from 329 staff in 2014 to 294 staff in 2015 for the rod mills. This is reflected in the capacity and capacity utilisation rates above. The reduction in staffing numbers has lowered production capacity.

Productivity

Productivity, measured as tonnes per shift, has improved from 1,803 tonnes in 2012 to reach 1,923 tonnes in 2015.

Stock held

Stocks of RIC held have decreased over the period from financial year (FY) 2012 to FY 2015. This suggests a reduced level of holding costs for OneSteel as inventory and demand management has improved. As such, the Commission does not consider this reflects injury.

7.8.1 Summary of other economic factors

After considering the factors as outlined above, the Commission considers that OneSteel has also suffered injury in the form of reduced employee numbers and reduced capacity utilisation rates.

7.9 Factors other than dumping

The Commission has received submissions that the major cause of any injury experienced by the Australian industry is the high costs generated in serving a dispersed Australian market and the vertically integrated nature of the overall Arrium business.

The costs generated by the size of Australia have been considered, and the focused analysis has demonstrated that the imported goods are not necessarily sold to customers who are a significant distance from OneSteel production facilities. The Commission has analysed several customers who operate close to OneSteel facilities that demonstrate consistent trends with those found across the market, mitigating the concerns regarding the geographic size of the market. This comparison has been taken on a free-into-store basis to ensure that the potential distortions are recognised, however the Commission has not identified any injury based on costs incurred due to the size of Australia.

It was noted in the Australian industry report that less than 1% of the total CTMS could be attributed to finance costs, and that the cost methodology utilised by OneSteel reflects Australian accounting standards whereby transfer prices internally are the lower of cost or market sourced goods.

The finance burden of less than 1% of CTMS demonstrates that the goods are not subject to an overabundance of debt allocated.

As such, any specific inefficiencies which would not be reflected in the CTMS for the goods, and the assertion that the vertical integration of the Arrium business leads to inefficiency that is causing injury is not supported.

7.10 Preliminary finding

Based on an analysis of the information contained in the application and obtained during the Commission's site visit, the Commission consider OneSteel has experienced material injury in the form of:

- price depression;
- price suppression;
- reduced profit and profitability;
- reduced revenue;
- reduced employee numbers; and
- reduced capacity utilisation rates.

The Commission notes that OneSteel has suggested that injury in the form of lost sales volume and loss of market share have been suffered, however based on the information provided these forms of injury have not been demonstrated.

8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 Preliminary assessment

The Commission has previously found that the dumped goods from China have caused injury in the form of reduced prices, profitability, and price undercutting as part of PAD 301. These findings are available in the public record at www.adcommission.gov.au.

As directed by subsection 269TA(1), when considering the materiality of the injury, the Commission has had regard to the Ministerial Direction,[25] which directs that (*inter alia*):

- *material injury to be injury that is not immaterial, insubstantial or insignificant … and that there is no threshold amount that is capable of general application*;
- *dumping or subsidisation need not be the sole cause of injury to the industry*; and
- *in cases where the dumped or subsidised imports hold a small share of the Australian market, it may be difficult to demonstrate material injury. I direct that no minimum standard should be used to determine whether dumped or subsidised imports have a sufficient share of the Australian market to cause material injury*.

A full assessment and analysis of the causation of injury factors is included in **Confidential Appendix 5 – Injury and Causation Analysis**.

8.2 Price effects

The Commission has not received any submissions disputing the Commissioner's preliminary findings that the dumping of goods from China has caused material injury due to price effects, which can be found in PAD 301 here.

The Commissioner is satisfied that in a price sensitive market, the presence of dumped imports from China which represent the lowest price in the market is having an effect on the overall market.

The Commission has analysed the sales data provided by OneSteel to identify those customers in Australia that it has in common with the cooperating exporters. The Commission has compared the sales to these common customers during the investigation period. The Commission observed that the imported product regularly competes directly with OneSteel.

The Commission notes that OneSteel maintains a market based price setting policy.

Specifically, the Commission considers that both OneSteel and other importers would be able to increase their prices in the market if Chinse dumped goods were not being exported to Australia, evidencing price suppression, and that OneSteel's prices would attempt to cover the full CTMS its goods, evidencing price depression caused by the Chinese dumped goods.

8.3 Price undercutting

The Commissioner has found significant price undercutting by imports of the goods from China.

[25] *Ministerial Direction on Material Injury 2012*, 27 April 2012.

The Chinese exported goods have the lowest price of those entered into the Australian market, and due to the commoditised nature of the goods, the Commission considers that other import prices have also been significantly impacted by the price undercutting of the Chinese product.

This is demonstrated through the following indexed analysis of the import data and OneSteel prices.

Note: No imports from Dec 2014 or Mar 2015 from China.

Graph 5: Undercutting impact on imports

The graph demonstrates that there is a consistent trend of China undercutting the non-import price by up to 38%, and the other import price offers and the OneSteel price offers being reduced as demonstrated above.

The Australian industry provided substantial amounts of market intelligence to demonstrate the impact of these dumped prices which confirmed that the lowest price for competitive imports was the Chinese prices.

With the exception of December 2014 and March 2015 when there were no import entries into the ABF database, in each month the Chinese import price was lower than other undumped imports, which supports the finding of price undercutting.

In addition, undumped imports (as demonstrated by the green line in graph 5 above) are likely to have been impacted by the dumped goods due to the commoditised nature of the goods, which the Commission considers would also have traded at a higher price if the dumped Chinese RIC imports were not impacting on the market.

The Commission has noted that the goods are highly substitutable, and commodity like in nature. The Commission considers that this increases the effect of undercutting by dumped goods from China.

8.4 Foreign exchange and steel market impacts

The Commission acknowledges that the steel prices in general have been depressed globally within the investigation period,[26] but also notes that due to a significant decline in the Australian dollar against the United States Dollar,[27] and the trade weighted index,[28] the Australian market has not shown the same level of weakness in steel prices in general, including RIC.

Over the period, there was also a change in the exchange rate between the $CNY and $USD, which would reduce revenue generated by exporters without increasing the $USD value of the contracts. The Commission considers this would lead to an increase in $USD export prices offered from China into the Australian market. This was not evidenced, supporting the finding of price undercutting by Chinese dumped goods.

8.5 Price injury causation summary

The Commission considers that without the undercutting by dumped Chinese RIC imports and price offers into the market the prices received by OneSteel would be higher as they would be competing with undumped imports at a higher price point.

Given the commoditised nature of the goods, once the products from China became commercially accepted within Australia, the price impacts of China would also have an effect on the pricing of export offers coming from other countries. This is driven by the competitive nature of the market, whereby traders and importers are looking to maximise their potential returns without having specific ties to any one supplier or country. The presence of imports being dumped from one country can therefore have a significant impact on the price offers across the entire market, including depressing offers from other countries below the price point at which they would normally offer to supply.

The Commission considers that without the dumped prices from exporters in China, the leverage point would be other importers of the goods at a higher price point, being the minimum non-Chinese import offer. The non-Chinese import offer would also be higher without the influence of the Chinese product at dumped prices.

The Commission considers that the existence of trading companies within the marketplace for RIC means that the volume of dumped imports is not a significant factor impacting on prices; rather, the existence of offers for dumped goods within the market has the most significant impact.

The Commission considers that the Australian industry would likely achieve higher prices in the absence of the low-priced dumped imports from China, without a reduction in volumes. As such, the Australian industry suffered injury in the form of price suppression, depression, and undercutting and that injury was caused by the presence of low-priced dumped RIC exported from China in the Australian market.

8.6 Volume effects

As noted at section 7.6 within this report, the Commission has not yet identified sufficient evidence to support the claimed volume based injury.

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[26] Platts' East Asian steel billet price index fell 31% during the investigation period.

[27] RBA information shows an annual decline of 17% against the $USD based on 2 June 2014 and 30 July 2015 values.

[28] RBA information shows an annual decline of 10% against the trade weighted index based on 2 June 2014 and 30 July 2015 values.

8.7 Profit & profitability effects

As described earlier in this report, the Commission has found that OneSteel has experienced declines in its profit and profitability.

Whilst the Commission has not established that dumped imports from China have caused injury in the form of lost sales volume, it has been established that the dumped imports have caused injury in the form of price suppression and price depression.

As noted above, the Commission considers that the dumped Chinese imports of RIC are the low price leaders in the Australian market. In the absence of the dumped Chinese RIC, the Australian industry would be able to increase its prices as the price point of its competitors would be higher, and likely would not have dropped as low as it is now, without reducing sales volumes. Accordingly, the Commission considers that OneSteel would be in a position to increase net revenues without additional costs being incurred based on increased unit revenue being generated. In turn, this would improve profits and profitability.

Where price increases without a reduction in volume or a change in costs, profit and profitability increase. As these price increases have not occurred due to the existence of dumped Chinese goods within the Australian market, the Commission considers that OneSteel has suffered injury in the form of reduced profits and profitability caused by dumped RIC from China.

8.7.1 Size of the dumping margins

The Commission has found that dumping margins of 28.2% and 32.1% for cooperating exporters, and 53.9% for all other exporters. These are above negligible levels (2%).[29] Dumping of this magnitude has enabled importers of RIC to have a competitive advantage over the Australian industry by being able to offer RIC at lower prices than would otherwise have been the case and this has caused OneSteel to lower its prices.

8.8 Preliminary findings

As directed by the Ministerial Direction, the Commission considers that the range of factors in which the industry has suffered injury, when considered together, is material in degree and greater than that likely to occur in the normal ebb and flow of business.

The Commissioner considers that the Australian industry was likely to achieve higher prices in the absence of dumped imports from China. As such, the Australian industry suffered material injury in the form of:

- price suppression;
- reduced sales volumes;
- reduced market share; and
- reduced profits and profitability.

The Commission is preliminarily satisfied that this material injury was caused by sales of RIC exported from China at dumped prices.

The Commission considers that these direct impacts are likely to have indirectly impacted on the following forms of injury due to reduction in revenues leading to adjustments to production plans and staffing levels:

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[29] Subsection 269TDA(1)(b)(ii)

- reduced return on investment;
- reduced employee numbers; and
- reduced capacity utilisation rates.

The Commission also considers that these indirect considerations are indicative of material injury having been caused by sales of RIC exported from China at dumped prices.

9 WILL DUMPING AND MATERIAL INJURY CONTINUE?

9.1 Preliminary assessment

The Commission has found that RIC exported from China in the future may be at dumped prices, and that the continued dumping may cause further material injury to the Australian industry.

9.2 Discussion

Pursuant to subsection 269TG(2) where the Parliamentary Secretary is satisfied that material injury to an Australian industry producing like goods has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Parliamentary Secretary is satisfied that the dumping and material injury may continue.

9.3 Will dumping continue?

The Commission found that both co-operative exporters had exported goods at dumped prices, with dumping margins of 28.2% and 32.1% respectively.

Consistent with the finding regarding market situation, the Commission holds that there is a significant distortion in the steel industry in China. While this situation continues, the Commission considers that Chinese manufacturers are likely to sell at a price which is less than the fully absorbed costs. This will allow Chinese manufacturers to maintain sales volume at the expense of other potential suppliers, and this sales volume will contribute to the more efficient operation of their blast furnaces.

The Commission has examined import volumes from the ABF import database occurring during and post the investigation period. The Commission observes that import volumes from China for the six month period following the end of the investigation period, that is July to end of December 2015, are higher than verified volumes during the investigation period. Similarly, the Commission observes that the weighted average FOB export prices as recorded in the ABF import database are similar and in some instances lower than the declared export prices reported in the ABF import database during the investigation period.

The Commission notes that the market is predicted to grow by independent research, with some recovery of prices noted.[30] The total volume growth however is expected to be potentially absorbed by continued excess capacity in China, which is expected to lead to an excess supply within the Chinese domestic market, leading to a more export focused Chinese industry. The Commission has noted independent research that demonstrates there continues to be a significant investment in capacity growth in China.[31]

The Commission notes that exporters have established channels to market within Australia, both directly and through trading entities, which may continue to be utilised.

Based on the available evidence, the Commission considers that exports of RIC exported to Australia from China may be at dumped prices and that continued dumping may cause further material injury to Australian industry.

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[30] IBISWorld, IBISWorld Business Environment Report, Domestic price of iron and steel, July 2015.

[31] OECD (2015), “Excess Capacity in the Global Steel Industry and the Implications of New Investment Projects”, OECD Science, Technology and Industry Policy Papers, No. 18, OECD Publishing.

10 NON-INJURIOUS PRICE

10.1 Preliminary assessment

Subsection 269TACA(a) identifies the non-injurious price (NIP) of the goods exported to Australia as the minimum price necessary to remove the injury caused by the dumping.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). Deductions from this figure are made for post-exportation costs to the relevant level of trade in Australia.

For this investigation, the Commissioner has noted the operation of s.8(5BAA)(a) of the Dumping Duty Act and the Commission's findings that the goods are subject to a particular market situation in the domestic market within China. The Commission therefore recommends that regard should not be had to the desirability of fixing a lesser rate of duty and the full preliminarily assessed dumping be applied to any interim dumping duty taken in relation to RIC that the Commission proposes in this report to recommend to the Parliamentary Secretary

The Commission will continue to consider this position prior to the final report.

10.2 Discussion

The calculation of the NIP is relevant for the purposes of the lesser duty rule under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).[32] Duties may be applied where it is established that dumped imports have caused, are causing or have threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping, but, where the NIP of the goods is less than the normal value of the goods, the Parliamentary Secretary must also have regard to the desirability of fixing a lesser amount of duty.

However, pursuant to subsection 8(5BAA)(a) of the Dumping Duty Act, the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. One such circumstance is where the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii).

As outlined above, the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii). As such, the Commission notes that the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of dumping duty.

The Commission notes subsection 8(5BAA)(a) of the Dumping Duty Act does not limit the Parliamentary Secretary from having regard to fixing a lesser level of duty if considered reasonable in the circumstances.

[32] Subsection 8(5B) of the Dumping Duty Act.

11 PROPOSED MEASURES

11.1 Discussion

The Commission recommended that securities be taken as an *ad valorem* measure following the publication of the PAD.

The Commission recognises that this SEF has found significantly increased rates of dumping due to the adjusted methodology, with a significantly larger rate for uncooperative and all other exporters.[33]

As such, the Commission has also reconsidered both the rate and appropriate method for implementation of the securities.

Following a submission from OneSteel that the securities imposed following the PAD have not been effective, the Commissioner was requested to consider the following:

- consider adjusting the nature of the securities from a bond to a cash deposit;
- consider changing the nature of the calculation of the security from *ad valorem* to the combination method; and / or
- consider adjusting the effective date of the securities to apply retrospectively.

<u>Method of calculation for security</u>

The Commission has considered the application of a combination method for securities instead of the *ad valorem* method. The *ad valorem* method was originally selected in part due to the use of unverified data in making the PAD.

OneSteel provided information that demonstrated, *prima facie*, that the securities imposed were not having a substantial effect on preventing material injury from continuing during the investigation.

The Commission considers that the significant increase in the rate of security will ensure that material injury is prevented from continuing for the duration of the investigation, and as such the form of security, being *ad valorem*, will be maintained.

In addition, the Commission considers that an *ad valorem* security is most appropriate given the advantages that the *ad valorem* duty method has for goods with potential price fluctuations over time which may occur.

11.2 Imposition of dumping duties retrospectively

Subsection 269TN(3) provides that a retrospective dumping duty notice may be published in certain circumstances.

In considering whether to recommend that a retrospective notice should be published as part of this investigation, the Commission has had to regard to subsection 269TN(3) and whether:

- the importer knew, or ought to have known, that the goods were dumped goods and for that reason would cause material injury to Australian industry (subsection 269TN(4)(a));

  OR

[33] Section 6.2 refers.

- the goods are of a kind which on a number of occasions has caused material injury to Australian industry, or would have caused material injury but for the publication of a notice under sections 269TG or 269TJ because the exported goods were dumped (i.e. the goods are of a kind which have previously been found to be dumped in Australia) (subsection 269TN(4)(b);

  AND

- the goods entered home consumption up to 90 days before securities were taken (or the Commissioner had a right to take securities) (subsection 269TN(3)(a)); and
- material injury, arising from dumping, has been caused to Australian industry by the importation during a short period of large quantities of goods of the same kind (subsection 269TN(3)(b)); and
- publication of a retrospective notice is necessary to prevent the serious undermining of the remedial effect of the dumping duty that will become payable upon publication of the notice (subsection 269TN(3)(b)).

The Commission does not believe that in the current investigation sufficient evidence has been uncovered to support the application of retrospective dumping duties.

As such, the Commissioner is not satisfied that the conditions of subsection 269TN(3) have been met and will not recommend that a retrospective notice be published based on the information covered by this SEF.

12 APPENDICES AND ATTACHMENTS

Appendix 1	Market Situation Assessment
Confidential Appendix 2	Hunan Valin Dumping Margin Spreadsheet
Confidential Appendix 3	Jiangsu Shagang Dumping Margin Spreadsheet
Confidential Appendix 4	Uncooperative and Other exporters dumping margin spreadsheet
Confidential Appendix 5	Injury & Causation Analysis

Non-Confidential Appendix 1
Market Situation Finding

1. Introduction

This appendix provides an assessment and determination of a 'particular market situation' (market situation) in relation to steel rod in coil ("RIC") in China during the investigation period. This appendix details the basis of assessment and the tests applied to determine the existence of a 'market situation' in relation to domestic price of RIC in China.

Allegation of market situation

In its application, OneSteel Manufacturing Pty Ltd (OneSteel) alleged that, during the investigation period, a market situation existed in the Chinese RIC market that rendered sales in that market unsuitable for determining normal value under subsection 269TAC(1) of the *Customs Act 1901* (the Act) due to interventions by the Government of China (Chinese Government) in the Chinese iron and steel industry. OneSteel alleged that this made the domestic price for RIC unsuitable for the determination of normal values.

OneSteel's claim of Chinese Government intervention in the Chinese steel industry identified the following measures:

- policies and plans that outline the Chinese Government's aims and objectives for the Chinese steel industry; and
- value added tax (VAT) arrangements.

Sources of information used in application

Sources of information used by OneSteel are listed below.

- National Steel Policy (2005).
- Blueprint for the Steel Industry Adjustment and Revitalisation (2009).
- National and regional Five-Year Plans and guidelines.
- The 12th Five-Year Plan: Iron and Steel (2011-2015 Development Plan for Steel Industry).

2. Background

The Act does not provide any definition of particular circumstances or factors which would satisfy the Minister that a 'market situation' exists. The WTO Anti-Dumping Agreement is similarly silent in relation to the definition of the concept of a 'market situation' referred to within Article 2.2.

In relation to determining whether a 'market situation' exists, the Anti-Dumping Commission's (the Commission's) Dumping and Subsidy Manual[34] states:

> *In considering whether sales are not suitable for use in determining a normal values under subsection 269TAC(1) because of the situation in the market of the country of exporter the Commission may have regard to factors such as:*
>
> *In considering whether sales are not suitable for use in determining a normal value under s.269TAC(1) because of the situation in the market of the country of export the Commission may have regard to factors such as:*
>
> - *whether the prices are artificially low; or*
> - *whether there are other conditions in the market which render sales in that market not suitable for use in determining prices under s.269TAC(1).*
>
> *Government influence on prices or costs could be one cause of "artificially low pricing". Government influence means influence from any level of government.*
>
> *In investigating whether a market situation exists due to government influence, the Commission will seek to determine whether the impact of the government's involvement in the domestic market has materially distorted competitive conditions. A finding that competitive conditions have been materially distorted may give rise to a finding that domestic prices are artificially low or not substantially the same as they would be if they were determined in a competitive market.*[35]

The Commission considers that the analysis of a 'market situation' can involve the consideration of all relevant market variables in relation to the subject good in totality and that the term 'a situation' for the purposes of this report defies precise definition.

The Commission holds that 'a situation' refers to the presence of a factor or composite factors which collectively operate to cause a degree of distortion in the market that renders arm's-length transactions in the ordinary course of trade in that market unsuitable for use in determining normal values.

More specifically, the Commission considers that a 'market situation' assessment involves an examination of factors which may affect the interaction of supply and demand in a sector, industry or market, to the extent that prices and costs in that market can no longer be viewed as being established under normal market principles.

In assessing a 'market situation', the Commission considers that governments can directly or indirectly influence domestic prices through the imposition of restrictions on how prices are charged for a product. This influence can be through:

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[34] Anti-Dumping Commission, December 2013, Dumping and Subsidy Manual. http://www.adcommission.gov.au/accessadsystem/Documents/Dumping%20and%20Subsidy%20Manual%20-%20November%202015_20%20Nov%202015%20-%20final%20on%20website.pdf

[35] Dumping and Subsidy Manual, pp 35.

1. direct price regulation (floor or ceiling pricing mechanisms); or
2. indirect influence through polices that impact on the supply of the subject goods or the supply or price of major inputs used in the production of the subject goods.

The influence of a government does not, in itself, establish the existence of a 'market situation'. In assessing whether a 'market situation' exists, the Commission needs to examine both:

1. the effect such influence has on the market; and
2. the extent to which domestic prices are distorted and unsuitable for proper comparison with corresponding export prices.

The Commission considers that, in the context of this analysis, evidence of government policies and programs that specifically or indirectly flow to the relevant market under consideration may have an effect on domestic commerce with respect to the goods. The Commission holds that this information is relevant to the analysis of whether factors exist which can be characterised as a 'market situation' for the purposes of subsection 269TAC(2)(a)(ii) of the Act.

Consideration of whether a situation exists in the relevant market is concerned with the operation of policies and regulations (whether overt or implied) and their potential impact on the suitability of domestic selling prices for normal value purposes. Accordingly, the question to be answered is whether the relevant policies operate in a manner which:

a) leads to a distortion of competitive market conditions in relation to the subject goods such that domestic sales are unsuitable for the purposes of determining normal value; and
b) affects the conditions of commerce related to the production or manufacture of like goods such that the records of exporters cannot be relied upon to reasonably reflect competitive market costs associated with production in accordance with the provisions of subsection 43(2) of the Regulations.

Evidentiary threshold

The Commission considers that the issue as to whether or not a 'market situation' exists in the domestic market of an exporting country is a matter for the Parliamentary Secretary to consider. In doing so, the Parliamentary Secretary ought to be satisfied on the basis of consideration of the totality of all relevant available evidence, that a 'market situation' exists for the purposes of subsection 269TAC(2)(a)(ii), in so far as the evidence provides a reliable understanding of the prevailing characteristics of the market for the goods in that country.

It is considered that the assessment as to whether a 'market situation' exists in a particular market constitutes a positive test. That is, before actual selling prices are rejected, the Commission needs to identify a 'market situation', and be satisfied that the 'market situation' renders the sales in that market not suitable for normal value purposes.

In undertaking this assessment, the Commission considers that the evidence does not have to be conclusive before a 'market situation' finding may be made.

Rather, it must be relevant and reasonably reliable. The Commission emphasises that consideration of the existence and operative effect of government administered programs upon a domestic market is distinctly different to the determination of any countervailable benefits in a countervailing investigation.

China as a market economy

Australia treats China as a market economy for anti-dumping purposes and the Commission conducts its investigation in the same manner for China as it does for other market economy members of the WTO.

Irrespective of the country subject of the investigation, the Australian anti-dumping framework allows for the rejection of domestic selling prices in market economies as the basis for normal value where there is a 'market situation' rendering the sales unsuitable. The Commission's investigation in this case concerning China is outlined below.

Information relied upon

The Commission provided the Chinese Government with a 'Government Questionnaire' in August 2015. The Chinese Government confirmed receipt of the questionnaire, however subsequently declined to submit a response to the questionnaire. Following the lack of response by the Chinese Government meant that the Commission's assessment of its impact on the market conditions during the investigation period was based on the best available information from other sources. Information sources relied upon by the Commission are listed below.

- OneSteel's application for the publication of dumping and/or countervailing duty notices concerning steel rod in coil exported from the People's Republic of China.
- Previous investigations undertaken by the Commission in relation to the Chinese steel industry, with a specific focus on the recent Market Situation finding made in Dumping Case 300, Steel Reinforcing Bar, China due to its timeliness, the similarity of the products and the market forces impacting on both product lines.
- An investigation into 'certain concrete reinforced bar' originating from the People's Republic of China undertaken by the Canada Border Services Agency (CBSA), December 2014.[36]
- Information obtained through the Commission's research and analysis.

Previous investigations undertaken by the Commission

The Commission has previously undertaken a significant amount of information, research, and analysis on the impact which the Government of China has had on the Chinese domestic steel markets. Cases which specific relevance to the allegations made by OneSteel in respect to the Chinese steel industry include:

Anti-Dumping Commission, 2015, Dumping Investigation 300: Alleged Dumping of Steel Reinforcing Bar Exported from the People's Republic of China (INV 300)

Australian Customs and Border Protection Service, 2012, Report Number 177: Certain Hollow Structural Sections Exported from the People's Republic of China, The Republic of Korea, Malaysia, Taiwan and the Kingdom of Thailand (INV 177).

Australian Customs and Border Protection Service, 2013, Report Number 193: Alleged Subsidisation of Zinc Coated Steel and Aluminium Zinc Coated Steel Exported from the People's Republic of China (INV 193).

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[36] Canada Border Services Agency (CBSA), December 2014, Statement of Reasons: Concerning the final determinations with respect to the dumping of 'Certain concrete Reinforcing Bar Originating in or Exported From The People's Republic of China, The Republic of Korea and The Republic of Turkey; and the subsidising of 'Certain Concrete Reinforcing Bar Originating In Or Exported From the People's Republic of China'; and the terminations of the investigation with respect to the subsidising of 'Certain Concrete Reinforcing Bar Originating In Or Exported From The Republic of Korea and The Republic of Turkey.

Anti-Dumping Commission, 2013, Report Number 198: Dumping of Hot Rolled Plate Steel Exported from the People's Republic of China, Republic of Indonesia, Japan, The Republic of Korea and Taiwan and Subsidisation of Hot Rolled Plate Steel Exported from the People's Republic of China (INV 198).

Australian Customs and Border Protection Service, 2013, Report Number 190: Alleged Dumping of Zinc Coated (galvanised) Steel and Aluminium Zinc Coated Steel Exported from the People's Republic of China, Korea and Taiwan (INV 190).

3. Assessment of the influence of the Government of China on the Chinese steel industry

When undertaking this investigation, the Commission's assessment of the 'market situation' considered the Chinese Government's influence over the broader Chinese steel industry. The Commission sought information about the specific RIC market, and the Iron & Steel industries more broadly from the Chinese Government. As noted above, the Government of China did not respond to the questionnaire provided.

As the Government of China did not respond, the Commission adopted the approach as the Chinese Government's non-response to the Commission's 'Government Questionnaire' left the Commission with limited contemporaneous information upon which to make its assessment.

It is important to note that the inputs and process for manufacture of reinforcing bar in coil and RIC are very similar, and both form part of the steel 'long product' market, and with further manufacture RIC can be converted into a form of reinforcing bar.

The Commission notes that the Government of China has supported a significant increase in steelmaking capacity through support of increasing blast furnace capacity.

In addition the blast furnaces have become significant local employers and taxpayers for regional governments.

The Commission is reliant on the best available information for this assessment. As RIC is part of the boarder steel industry findings demonstrating Government influence in the Chinese steel industry are relevant to the RIC market.

Conditions within the Chinese RIC market

During the investigation period, the average monthly price for RIC in China (domestic price for Chinese RIC) fell from around USD$496.50 per tonne to USD$350.50 per tonne.[37] The weakness in the domestic price of Chinese RIC was the result of continued high levels of supply and a recent weakening in demand, particularly from within the construction sector.[38]

The decline in the domestic price for Chinese RIC during the investigation period was consistent with the broader downward trend in Chinese and world steel prices in recent years. For example, the average domestic price for Chinese RIC more than halved over the four years from July 2011 quarter (USD$767) in the July 2015 quarter (USD$326).[39] This position is supported by the increased price spread demonstrated for long products in China over the period January 2014 – August 2014 prior to a significant contraction from September 2014 through to February 2015.

While the spread has been maintained, there has been a significant reduction in revenue generated from both finished goods (RIC) and intermediate goods (Billet) produced. The monthly average market price for both have fallen by 60% since December 2011 to November 2015.[40]

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[37] Long Products / Wire Rod Q195 6.5mm / China domestic Shanghai (incl. 17% vat) RMB/t Average Domestic RIC Price (sourced from Platts).

[38] Global Market Outlook, April 2015, p3. World Steel Review, 01 July 2015, p6

[39] Average Domestic RIC Price (sourced from Platts).

[40] Steel First, July 2015, Can China's steel mills weather the storm?

The Commission holds that while weaker domestic demand for Chinese RIC contributed to declining prices during the investigation period, the primary factor was the high ongoing level of RIC production due to a historically high level of government support leading to an artificially high investment in blast furnace production assets resulting in excess supply.[41]

Conditions within the Chinese steel industry

The continued depression in prices (noted above) demonstrates that prevailing conditions within the Chinese RIC market during the investigation period were consistent with the conditions within the broader Chinese steel industry. These conditions included significant excess blast furnace production capacity leading to a supply glut, and weakened demand and producer profitability. For example, the Department of Industry, Innovation and Science estimates that in early 2015, the overcapacity in the broader Chinese steel industry was around 200 million tonnes[42] with capacity utilisation averaging around 70% over the past two years.[43] Furthermore, it is estimated that in early 2015 around 50% of the overcapacity in the global steel industry was located in China.[44]

In recent years the combination of excess capacity and declining prices has put many Chinese steel producers under significant financial pressure. Between 2011 and 2014, it is estimated that the proportion of Chinese steel mills making a loss increased from around 10% to 50%. While lower input cost resulted in a reduction in the number of loss making mills from the beginning of 2014, the proportion remained significant throughout the investigation period. For example, it is estimated that the number of loss making mills fell from around 44% in January 2014 to 15% in December 2014.[45]

The Commission holds that the price weakness in the domestic Chinese steel markets contributed to the significant increase in the level of Chinese steel exports in recent years as steel producers attempted to improve cash flow and profitability. For example, in 2014, China’s steel exports increased by around 50% (year on year) to around 94 million tonnes. Similarly, in the first seven months of 2015, Chinese steel exports increased by a further 27% (year on year). The primary destinations for China’s steel exports were South Korea, India and Vietnam.[46]

Chinese steel industry: Factors contributing to current conditions

Over the past decade the Chinese steel industry experienced significant investment in and expansion of production capacity. It is estimated that over the last decade, total Chinese crude steel production capacity increased by around 190%.[47] Similarly, it is estimated that between 2004 and 2014, total annual steel production in China increased from around 280 to 820 million tonnes. While the Commission notes that the growth in steel production has come from a combination of state owned and privately owned steel producers, the Commission holds that both types of producers have received significant assistance from the Chinese Government, particularly at the provincial and local government level.

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[41] Dept. of Industry and Science, March 2015, Resources and Energy Quarterly, p24
[42] Dept. of Industry and Science, June 2015, Resources and Energy Quarterly, June 2015, pp14- 15
[43] Platts Insight 201, 27 March 201
[44] Dept. of Industry, Resources and Energy Quarterly, March 2015, p25
[45] SBB Steel Prices, Price Spreads / China Long Steel Spread (IODEX) / China RMB/t
[46] Dept. of Industry, Internal Briefing Notes
[47] Dept. of Industry, Resources and Energy Quarterly, March 2015, p24

The Commission recognises that in recent years the Chinese Government has taken significant steps to restructure and reorganise the domestic steel industry to better manage the level of excess production capacity, oversupply and environmental concerns.[48] For example, since July 2014, China's Ministry of Industry and Information Technology (MIIT) has released lists of steel makers that were to remove obsolete capacities. The MIIT also requested that provincial governments submit, by June 2015, their targets for dismantling outdated and excess capacity in 2015 and during the 13th Five Year economic development plan period (2016-2020).[49] During the investigation period the Chinese Government also announced plans to shut 47 mt of steel capacity[50] and a further 80 mt by 2017.[51]

Other regulatory interventions which demonstrate the Chinese Government's significant involvement within the Chinese steel industry include the revision of the 'Chinese Environmental Protection Law' (January 2015) and the 'Execution of Capacity Swap for Industries with Overcapacity' (April 2015).[52] The 'Chinese Environmental Protection Law' establishes pollution reduction targets for local authorities and toughens penalties for non-compliance to encourage older, higher polluting steel mills to exit the industry.[53] The 'Execution of Capacity Swap for Industries with Overcapacity' (April 2015) states that any addition to steel mill capacity must be offset by a one-for-one reduction in existing capacity. In regions with a high concentration of steel mills the reduction ratio is 1.25 to 1.

The Commission considers that for a number of reasons, the effectiveness of these measures on reorganising the Chinese steel industry or reducing the level of excess supply that existed during the investigation period was limited. The Commission considers that some of the key constraints on the effectiveness of these directives included the divergence in objectives between the different levels of the Chinese Government and the availability of financing to support the restructuring and reorganisation.[54]

With regard to the objectives of provincial and local governments, steel mills are typically major employers, sources of significant tax revenue and providers of health care and education services within their respective regions. As such, there are significant incentives for provisional and local governments to resist directives from the Central Government to remove excess capacity and to provide these producers with support to enable them to continue operating. With regard to financing, the Commission holds that the ability of Chinese steel producers to undertake capital investment required to restructure has been constrained by a combination of weak profitability and reduced support from traditional funding sources. [5543]

48 Platts Insight 198, 03 April 2014. World Steel Review, 22 April 2015, p6. World Steel Review, 01 July 2015, p1

49 OECD, 2015, Excess Capacity in the Global Steel Industry and the Implications of New Investment Projects. OECD Science, Technology and Industry Policy Papers, No. 18. OECD Publishing, p15

50 Dept. of Industry, Resources and Energy Quarterly, September 2014, p23

51 OECD, 2015, Excess Capacity in the Global Steel Industry and the Implications of New Investment Projects. OECD Science, Technology and Industry Policy Papers, No. 18. OECD Publishing, p15

52 Dept. of Industry, Innovation and Science, Internal Briefing Notes

53 Dept. of Industry and Science, March 2015, Resources and Energy Quarterly, p24

54 Platts Insight 201, 27 March 2015

55 Platts Insight 201, 15 May 2014

For example, in August 2015 the China Iron & Steel Association noted that during the first half of 2015 Chinese banks had cut loans to steel makers by around USD 15 billion or by 6% (on a year on year basis)[56] and that the provision of funding by Chinese banks to the Chinese steel industry was increasingly being directed at state owned steel producers.[57]

The central role of the Chinese Government in the current restructuring of the Chinese steel industry is consistent with its role throughout the development of the industry, including its significant expansion over the past decade which resulted in the excess supply and suppressed prices experienced during the investigation period.

Chinese steel industry: Chinese Government influence

The Commission holds that the Chinese Government (including central, provincial and local governments) materially contributed to the excess supply of RIC in the domestic Chinese market and hence significantly influenced domestic price for Chinese RIC during the investigation period. This influence has occurred through the following mechanisms.

- Chinese Government directives, subsidy programs and involvement in strategic enterprises.
- Taxation arrangements, including value add taxes and export rebates.

Chinese Government directives

The Commission holds that the Chinese Government maintained a central role in the development of the Chinese steel industry and by virtue, materially contributed to its rapid expansion and the chronic oversupply during the investigation period.

The significance of this role was articulated by a recent CBSA investigation into the dumping and countervailing of ‘certain concrete reinforced bar’ originating from the People’s Republic of China.[58] The CBSA’s ‘*Statement of Reasons’* report released in December 2014 notes that the Chinese Government classifies the ‘Iron and Steel Industry’ as a ‘fundamental or pillar’ industry. The CBSA’s report also noted that as a ‘fundamental or pillar’ industry the Chinese Government maintains a degree of control over the industry, through a minimum of 50% equity in the principle enterprises. The significance of the Chinese Government’s role in the Chinese steel industry is also reflected in the National Development Reform Commission’s (NDRC’s) responsibility for approving all large steel projects.[59]

The Commission holds that the central role of the Chinese Government in the Chinese steel industry is also reflected through the numerous planning documents and directives issued by the Chinese Government regarding the structure and composition of Chinese steel industry. As such, in assessing the existence of a ‘market situation’ in the Chinese steel industry and consequently the Chinese RIC market, the Commission reviewed a number of Chinese Government planning documents and directives. These documents and directives are listed below.

- *National Steel Industry Development Policy (2005).*
- *Blueprint for the Adjustment and Revitalisation of the Steel Industry (2009).*
- *2011-2015 Development Plan for the Steel Industry (2011).*
- *Steel Industry Adjustment Policy (2015 Revision).*

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56 Metals Insight, 13 August 2015, p3.
57 Metals Insight, 13 August 2015, p3.
58 CBSA, 2014, p 14.
59 CBSA, 2014, p 17

In addition to the Chinese Government planning documents and directives listed above, the need for restructuring and reorganisation of the Chinese steel industry, including the elimination of backward capacity, was also addressed in the documents listed below. While these planning directives cover a broad range of industries, the inclusion of the steel industry reinforces its central role within the Chinese economy and hence high levels of Chinese Government intervention.

- *Notice of Several Opinions on Curbing Overcapacities and Redundant Constructions in Certain Industries and Guiding the Healthy Development of Industries (2009).*
- *Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013).*
- *Directory Catalogue on Readjustment of Industrial Structure (Version 11) (2013 Amendment).*

Chinese Government directives: Summary of themes and objectives

The Commission holds that the extent of the Chinese Government's influence within the Chinese steel industry is reflected in the major themes and objectives of its plans and directives toward the industry. These themes and objectives are listed below.

National Steel Industry Development Policy (2005)[60]

- Structural adjustment of the Chinese steel industry.
- Industry consolidations through mergers and acquisitions.
- Regulation of technological upgrading to new standards.
- Government supervision and management.

Blueprint for the Adjustment and Revitalisation of the Steel Industry (2009)[61]

- Maintaining stability within the domestic market.
- Controlling total steel production output and eliminating of backward capacity.
- Enterprise reorganisation and industrial concentration.
- Technical transformation and technical progress.
- Steel industry layout and development.
- Steel product mix and product quality.
- Maintain stable import of iron ore resources and rectify the market order.
- Development of domestic and overseas resources and guarantee the safety of the industry.

2011-2015 Development Plan for the Steel Industry (2011)[62]

- Increased mergers and acquisitions to create larger, more efficient steel companies.
- Chinese Government restrictions of steel capacity expansions.
- Upgrading steel industry technology.
- Greater emphasis on high-end steel products.
- Relocation of iron and steel companies to coastal areas.
- Minimum capacity requirements to reduce the number of small steel producers.

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[60] CBSA, 2014, p 17.
[61] CBSA, 2014, p 17
[62] CBSA, 2014, p18

- Increased controls on the expansion of steel production capacity.
- Accelerating the development of higher value steel products.

Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013)[63]

- Top ten companies accounting for 60% of production.
- Three to five major steel corporations with core competency and international impact.
- Six to seven steel corporations with regional influence.
- Encouraging steel corporations to participate in foreign steel companies' M&A.

Steel Industry Adjustment Policy (2015 Revision)[64]

- Upgrading product mix.
- Rationalising steel production capacity.
- Adjustments to improving organisational structures.
- Energy conservation, emission reductions, environmental protection.
- Production Distribution.
- Supervision and administration.
- Guiding market exit.
- Methods of, orientation and oversight of mergers and reorganisations.
- Consolidate number of steel companies.[65]
- Lift capacity utilisation rates to 80% by 2017.[66]

Chinese Government directives: Summary of Chinese Government influence

The Commission notes that the emphasis of these individual planning documents and directives is on promoting the orderly restructuring and reorganisation of the Chinese steel industry to better manage the issue of chronic oversupply. However, these planning documents and directives also demonstrate the extent of the Chinese Government's interventions within the Chinese steel industry.

The degree to which plans and directives issued at the central government level are integrated at the provincial level is reflected by the Shandong Province Development and Reform Commission's '*The opinions on the implementation of the structural adjustment of the steel industry in Shandong Province pilot program' (2012)*. The 'Opinions' notes that since 2006, the Shandong Provincial Government had issued a number of plans and measures to control the development of the iron and steel industry, eliminate backward production capacity, and accelerate the pace of mergers and restructuring work in the province's steel industry. Examples of these plans included the 'Guiding Opinions on accelerating the restructuring of the steel industry within the Shandong Province' and the 'Shandong Province Iron and Steel Industry Revitalisation Plan'.

63 http://rhg.com/notes/beijings-2015-industry-consolidation-targets-problem-or-solution
64 http://www.eurofer.eu/Issues%26Positions/Trade/ws.res/Steel Industry Adjustment Policy Comments Appendix.fhtml/Steel Industry Adjustment Policy Appendix.pdf
65 Dept. of Industry and Science, 2015, China Resources Quarterly, Southern Autumn – Northern Spring, p15.
66 ibid.

The '*Shandong Provincial People's Government Notice of Revitalisation Plan*' (2009) also demonstrates the linkages between plans issued by the Central Chinese Government and those issued at the provincial government level. The Commission holds that the consistency between planning documents and directives at the central and provincial government level further reinforce the high level of government intervention in the Chinese steel industry. For example, following from the Chinese Government's '*Blueprint for the Adjustment and Revitalisation of the Steel Industry*' (2009), the '*Shandong Province Iron and Steel Industry Revitalisation Plan'* identified the following areas where policy measures were to be applied:

- implementation of the national steel industry adjustment and revitalisation plan;
- acceleration of corporate mergers and acquisitions;
- technological transformation and technological innovation;
- development of domestic markets and stabilisation of position in export markets;
- improving resource security through 'going out' strategy;
- broaden financing channels for enterprises;
- increase the fiscal tax policy support; and
- give full play to the role of industry associations in planning, standards and policies.

Chinese Government subsidy programs

The nature of support provided by the Chinese Government to the Chinese steel industry is also documented through previous investigations undertaken by the Commission. While these investigations don't correspond with the investigation period, these programs directly contributed to the state of the Chinese steel industry and RIC market during the investigation period. Examples of the types of subsidies provided to the Chinese steel industry are set out below.[67]

- Steel inputs provided by the government at less than adequate remuneration.
- Coking coal and coke provided at less than adequate remuneration.
- Preferential Tax Policies for Enterprises with Foreign Investment.
- Preferential Tax policies for Specific Regions.
- Preferential Tax Policies for Foreign Invested Enterprises.
- Land Use Tax Deductions.
- Preferential Tax Policies for High and New Technology Enterprises.
- Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipment.
- Research and Development (R&D) Assistance Grants.
- Special Support Funds for Non State-Owned Enterprises.

Chinese Government involvement in strategic enterprises

The Commission holds that the Chinese Government also maintains significant interests in a number of major Chinese steel producers including some that produce RIC. Through its involvement in these companies, the Chinese Government is able to exert significant influence over the Chinese steel industry.

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[67] Anti-Dumping Commission, 2013, Report Number 198: Dumping of Hot Rolled Plate Steel Exported from the People's Republic of China, Republic of Indonesia, Japan, The Republic of Korea and Taiwan and Subsidisation of Hot Rolled Plate Steel Exported from the People's Republic of China, pp41-43. Australian Customs Service, 2013, Report Number 193: Alleged Subsidisation of Zinc Coated Steel And Aluminium Zinc Coated Steel, pp40-41

In supporting this view, the CBSA's investigation in 'Certain Concrete Reinforced Bar' notes that the Chinese Government classifies the 'iron and steel industry' as a 'fundamental or pillar' industry and as such retains a minimum of 50% equity in the principle enterprises. The CBSA report also noted that state owned steel producers constituted a majority of the top ten steel producers in China and accounted for a significant share of total steel production and capacity.[68]

The importance of these state owned steel producers is also reflected in the Chinese Government's *Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013)* which calls for the top ten steel producers to further consolidate control over Chinese steel production and hence influence over domestic steel markets. Out of the 10 largest Chinese steel produces, eight have a significant degree of government ownership.[69] These companies includes: Hebei Steel Group; Baosteel Group; Ansteel Group; Wuhan Steel Group; Shougang Group; Maanshan Steel; Tianjin Bohai Steel; and Benxi Steel Group.

Several of these companies are identified as having the ability to produce and sell RIC including BaoSteel[70], Ansteel[71], Wuhan[72], and Maanshan[73].

The central role of Chinese steel producers, with a significant degree of state ownership, within the Chinese steel industry is also reflected through their implementation of the underlying objectives of the Chinese Government's planning directives. Examples of these activities include the involvement of Chinese state owned steel companies in projects which have either been recently commissioned or are under development. These projects include: Anshan Iron & Steel's Bayuquan Steelworks (6.5 million tonnes per annum (mtpa)) (Liaoning Province) (commissioned 2008); the Shougang Jingtang United Iron & Steel's Steelworks (Hebei Province) (commissioned 2010); and the Fangchenggang Steel Company Limited (Wuhan Iron & Steel Group) Steelworks (9.2 mtpa) (Guangxi Province) (commissioned September 2014).[74] Significant Chinese steelworks with a focus on flat products currently being developed or planned include Baosteel's Zhanjiang steelworks (Guangdong Province) (expected commissioning in 2016); the Baotou Iron & Steel steelworks (5 mtpa) (Inner Mongolia); and the Chongqing Iron & Steel (Chongang) and POSCO signed Investment MOU (USD 3.3 bn) (signed July 2014).[75]

Taxation arrangements

The Chinese Government has traditionally operated, amongst other taxation arrangements, a Value Added Tax (VAT). Under the Chinese VAT system, a 17% tax is paid on consumption of goods, including the inputs used in the production of steel. For goods produced and sold within China, the tax is ultimately paid by the final consumers of the particular good. Because it is difficult for exporters to pass these taxes on, some steel exporters have traditionally been compensated for VAT paid during the production process through VAT rebates.

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[68] In 2010, eight of the largest ten Chinese steel producers where state owned and that that in 2013 the top steel companies accounted for 45% of total Chinese crude steel production., CBSA, 2014, p14

[69] Based on 2014 production. World Steel Association

[70] http://www.baosteel.com/group_en/contents/2908/40085.html

[71] http://en.ansteelgroup.com/cpzs/zdcp/2009-08-27/170.html

[72] http://english.wisco.com.cn/Pexport1/index.jhtml

[73] http://www.magang.com.hk/eng/companypofile.asp

[74] OECD, 2015, Excess Capacity in the Global Steel Industry and the Implications of New Investment Projects. OECD Science, technology and Industry Policy Papers, No. 18. OECD Publishing, p15

[75] ibid.

Through altering the VAT rebates or export taxes applied to steel exports, the Chinese Government is able to alter the relative profitability of different types of steel exports and of exports compared to domestic sales which will in turn influence the volume of steel directed to both markets. For example, by either reducing VAT rebates or increasing export taxes on steel exporters, the Chinese Government is able to reduce the relative profitability of exports to domestic sales and hence provide significant incentives for exporters to redirect their product into the domestic Chinese market. By using these mechanisms to alter the relative supply of particular steel products in the domestic market, the Chinese Government is also able to influence the domestic price for those products.

A recent example of the Chinese Government altering VAT rebates on steel products occurred in January 2015. The Chinese Government reduced the VAT rebate on steel products containing boron, which accounts for around 40% of exports.[76] While VAT rebates for boron have been recently reduced, they remain in place for other additives such as chromium.[77]

At present (and during the investigation period) the Chinese Government does not apply VAT export rebates to non-alloy RIC but it does apply an export tax of around 15%. The Commission considers, however, that the absence of VAT rebates and application of export taxes creates significant incentives for Chinese exporters to redirect their product from the export to domestic Chinese market. The Chinese Government also distorts the domestic price for RIC through the application of export taxes on Chinese billets, which accounts for between 80 to 85% of the total RIC production cost.[78] Both these policies lead to an increase in the availability of non-alloy RIC in the Chinese domestic market.

Previous investigations by the Commission identified the use of export taxes and export quotas on a number of key inputs in the steel making process including coking coal, coke, iron ore and scrap steel.[79] Due to the lack of response by the Chinese Government, the Commission has relied on the best available information, including previously completed investigations. As in the case of RIC and steel billets, these measures would create significant incentives for exporters to redirect these products into the domestic market, increasing the relative supply and reducing the respective prices to a level below what would have prevailed under normal market conditions.

The Commission holds that lower raw material prices would have a depressing effect on the domestic prices of Chinese RIC through both direct and indirect channels. The relative importance of these two channels would depend on the degree to which lower raw material costs flow through to lower billet and RIC prices and the degree to which billet and RIC producers are able to retain the lower raw material costs in the form of increased profit. Where a majority of the lower raw material costs flow through to lower billet and RIC prices, the depressing effect on RIC prices would be direct. Where lower raw material prices are able to be retained by billet and RIC producers as increased profit, this would create incentives for these producers to expand production and hence have a depressing effect on domestic Chinese RIC prices, by further increasing the level of domestic supply relative to demand.

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[76] Dept. of Industry and Science, March 2015, Resources and Energy Quarterly, p24

[77] Metals Insight, 14 May 2015, p4

[78] Anti-Dumping Commission calculations

[79] Anti-Dumping Commission, 2013, Report Number 198: Dumping of Hot Rolled Plate Steel Exported from the People's Republic of China, Republic of Indonesia, Japan, The Republic of Korea and Taiwan and Subsidisation of Hot Rolled Plate Steel Exported from the People's Republic of China, pp41-43.

The Commission considers that the export taxes and export quotas on key inputs for steel continue to have a distortionary impact on the steel market by reducing input costs by increasing the supply quantities of raw materials available for steel production.

Chinese RIC market: Assessment of particular market situation

Based on the proceeding analysis, the Commission has concluded that the Chinese Government materially influenced conditions within the Chinese RIC market during the investigation period. The mechanisms through which the Chinese Government exerted this influence include government directives and oversight, subsidy programs, taxation arrangements and the significant number of state owned steel companies.

The Commission also concludes that because of the significance of this influence over the Chinese RIC market, the domestic price for Chinese RIC was substantially different to what it would have been in the absence of these interventions by the Chinese Government. Based on this analysis, the Commission has determined that during the investigation period the domestic price for Chinese RIC was influenced by the Chinese Government to a degree which makes domestic sales of RIC unsuitable for use in determining normal values under subsection 269TAC(1) of the Act.