PUBLIC RECORD

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

REPORT NO. 300

ALLEGED DUMPING OF STEEL REINFORCING BAR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

March 2016

CONTENTS

ABBREVIATIONS

Abbreviation / short form	Full reference
ABF	Australian Border Force
ACRS	The Australasian Certification Authority for Reinforcing and Structural Steels
ADN	Anti-Dumping Notice
ARC	The Australian Reinforcing Company
AUD	Australian Dollar
BOF	Basic oxygen furnace
China	The People's Republic of China
CMC	Commercial Metals Company Pty Ltd
CTMS	Cost to make and sell
DCS	Developing countries subject
FOB	Free on board
GAAP	Generally accepted accounting practice
GOC	Government of China
GUC	Goods under consideration
MPa	Megapascals
Minister	Minister for Industry, Innovation and Science
Ministerial Direction	*Ministerial Direction on Material Injury 2012*
MT	Metric Tonnes
NIP	Non-injurious price
OneSteel	OneSteel Manufacturing Pty Ltd
OSR or OneSteel REO	OneSteel Reinforcing
PAD	Preliminary Affirmative Determination
rebar	steel reinforcing bar
Regulation	*Customs (International Obligations) Regulation 2015*
SG&A	Selling, general and administrative expenses
Stemcor	Stemcor Australia Pty Ltd
TCO	Tariff Concession Orders
the Act	*Customs Act 1901*

the Australian Standard	Australian Standard AS/NZS 4671.2001
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
the goods	the goods, the subject of the application (also referred to as the goods under consideration or GUC)
the Guidelines	*Guidelines on the Application of the Form of Dumping Duty November 2013*
the Manual	*Dumping and Subsidy Manual November 2015*
the Parliamentary Secretary	The Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
USD	United States Dollar
USITC	United States International Trade Commission
USP	Unsuppressed selling price
WTO	World Trade Organisation

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This Report (REP) Number 300 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 reinforcing bar (rebar) 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.

1.2 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901*[1] describes, among other matters, the procedures to be followed and the matters to be considered by Commissioner of the Anti-Dumping Commission (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 Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)[2]. Section 269TDA describes the reasons upon which the Commissioner must terminate an investigation.

1.3 Application

On 14 May 2015, OneSteel lodged an application requesting that the Parliamentary Secretary publish a dumping duty notice in respect of rebar exported to Australia from China.

OneSteel alleges that the Australian industry has suffered material injury caused by exports of rebar to Australia from China at dumped prices. OneSteel alleged 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;

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

[2] 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.

- 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.

Subsequent to receiving further information on 3 June 2015 from OneSteel and having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of rebar from China on 1 July 2015. Public notification of initiation of the investigation was made in *The Australian* newspaper on 1 July 2015.

ADN No. 2015/82 provides further details relating to the initiation of the investigation and is available in the public record 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 rebar exported to Australia from China. As such, the Commissioner made a preliminary affirmative determination (PAD) on 21 December 2015.

Securities were required and taken on imports of rebar from China entered for home consumption on or after 21 December 2015. A copy of the PAD is available on the public record.

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 statement of essential facts (SEF) on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary in relation to the application.[4]

The Commission published SEF 300 on 8 February 2016. A copy of SEF 300 is available on the public record.

In respect of the investigation:

- the investigation period [5] 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 rebar is from 1 July 2011.

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[3] See number 2 public record.
[4] Subsection 269TDAA(1)
[5] Subsection 269T(1)

1.6 The goods and like goods (Chapter 3)

The Commission considers that locally produced rebar is 'like' to the goods the subject of the application.

1.7 Australian market (Chapter 4)

There is an Australian industry producing like goods which comprises one Australian producer, OneSteel.

The Australian rebar market is supplied from local production by OneSteel and by imports from several countries including China.

1.8 Dumping (Chapter 5)

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

EXPORTER / MANUFACTURER	DUMPING MARGIN
Shandong Shiheng Special Steel Group	15.3%
Shandong Iron and Steel Company Limited, Laiwu Company	16.4%
Jiangsu Yonggang Group Co. Ltd.	11.7%
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	15.2%
Uncooperative and All Other Exporters	30.0%

Table 1: Dumping margins

1.9 Economic condition of the Australian industry (Chapter 6)

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

- loss of sales volumes;
- price suppression;
- less than achievable profits and profitability;
- reduced employment;
- reduced value of assets employed in the production of rebar; and
- reduced value of capital investment in the production of rebar;

and that this injury is material.

1.10 Causation assessment (Chapter 7)

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

1.11 Non-injurious price (Chapter 10)

The Commissioner recommends that the Parliamentary Secretary not have regard to the desirability of fixing a lesser rate of duty. Securities were calculated and taken at full dumping margins in relation to rebar.

1.12 Proposed measures and securities (Chapter 11)

The Commissioner recommends that securities be applied to all exporters from China and be calculated on an *ad valorem* duty method.

1.13 Conclusion

The Commissioner considers that:

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

2 BACKGROUND

2.1 Application

On 14 May 2015, OneSteel lodged an application under subsection 269TB(1) requesting that the then Minister for Industry and Science publish a dumping duty notice in respect of rebar exported to Australia from China.

OneSteel alleges that the Australian industry has suffered material injury caused by exports of rebar to Australia from China at dumped prices. OneSteel alleged 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.

2.2 Initiation

The Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of rebar from China on 1 July 2015. Public notification of initiation of the investigation was also made in *The Australian* newspaper on 1 July 2015.

ADN No. 2015/82 provides further details relating to the initiation of the investigation and is available on the public record.[6]

2.3 Previous investigations and current measures

On 17 October 2014, the Commissioner initiated an investigation (Investigation No. 264) into the alleged dumping of rebar exported to Australia from the Republic of Korea (Korea), Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand (Thailand) and the Republic of Turkey (Turkey).

Report (REP) 264 recommended to the Parliamentary Secretary that a dumping duty notice be published in respect of rebar exported to Australia by all exporters

[6] See item number 2 on the public record.

from Korea, Singapore, Spain and Taiwan (with the exception of Power Steel Co. Ltd (Power Steel)).

The Parliamentary Secretary agreed to the recommendations in the final report of Investigation 264 and the recommended measures were imposed on 19 November 2015.

2.4 Preliminary affirmative determination

A preliminary affirmative determination (PAD) was made on 21 December 2015 and securities have applied to imports of rebar from China entered for home consumption on and after that date.

2.5 Statement of Essential Facts

SEF 300 was published on 8 February 2016 and is available on the public record. SEF 300 indicated that the goods from China had been dumped, and that the dumping was causing material injury to the Australian Industry.

2.6 Submissions received from interested parties

The Commission has received several submissions from interested parties during the course of the investigation. These submissions have been considered by the Commissioner in reaching the conclusions contained within report. The submissions received are listed in **Non-Confidential Attachment 1**.

2.7 Public record

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 in hard copy by request in Melbourne or online at http://www.adcommission.gov.au. Documents on the public record should be read in conjunction with this report.

3 THE GOODS AND LIKE GOODS

3.1 Findings

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.

3.2 Legislative and policy framework

Subsection 269TC(1) provides that the Commissioner shall 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 first determines whether the goods produced by the Australian industry are 'like' to the imported goods. Subsection 269T(1) defines like goods as:

> G*oods 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 imports even if the goods it produces are not identical to those imported. However, the Australian industry must 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:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.3 The goods

The goods the subject of the investigation are:

> *Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.*

The goods covered by this application include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating.

Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.

3.4 Tariff classification

At the initiation of this investigation, ADN 2015/82 stated that the goods are typically classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- Tariff subheading 7214.20.00 with statistical code 47;
- Tariff subheading 7228.30.90 with statistical code 49 (as of 1 July 2015, statistical code 40);
- Tariff subheading 7213.10.00 with statistical code 42;
- Tariff subheading 7227.90.10 with statistical code 69; or
- Tariff subheading 7227.90.90 with statistical codes 02 and 04.

Subsequent to the initiation of this investigation, the Commission found that the goods have been imported under the following additional tariff classifications:

- Tariff subheading 7227.90.90 with statistical code 42 (prior to 1 January 2015);
- Tariff subheading 7227.90.90 with statistical code 01;
- Tariff subheading 7228.30.10 with statistical code 70;or
- Tariff subheading 7228.60.10 with statistical code 72.

The additional tariff classifications do not alter the goods description.

Further information on the goods and like goods is available at Document No 035 on the public record.

3.5 The Australian industry

Under subsection 269T(2), goods are not to be taken to have been manufactured in Australia unless the goods were wholly or partly manufactured in Australia. Under subsection 269T(3), goods shall not be taken to have been partly manufactured in Australia unless at least one process in the manufacture of the goods was carried out in Australia.

The Commission visited OneSteel's Laverton facility to examine its manufacturing processes and to verify its claims. The Commission has found that OneSteel undertakes at least one substantial process of manufacture in producing rebar in Australia, and therefore that there is an Australian industry, being OneSteel, producing like goods The report on the visit by the Commission to OneSteel includes further information on its market practices and is available on the public record.[7]

3.6 Like goods assessment

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.*

The Commission considers that OneSteel produces goods that are 'like' to the goods under consideration for the following reasons:

- the primary physical characteristics of the goods and the locally produced goods are similar;
- the goods and the locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- the goods and the locally produced goods are functionally alike as they have a similar range of end-uses; and
- the goods and the locally produced goods are manufactured in a similar manner.

Having regard to the above, the Commissioner is satisfied that the Australian industry produces 'like' goods to the goods the subject of the application, as defined in subsection 269T(1).

The Commissioner is satisfied that there is an Australian industry in respect of 'like' goods in accordance with subsection 269TC(1).

[7] See number 34 on the public record.

4 THE AUSTRALIAN MARKET

4.1 Background

The Commission has found that the Australian market for rebar is supplied by the Australian industry and imports from a number of countries, including China.

4.2 OneSteel

OneSteel competes with importers of rebar in all market segments and in all states and territories in Australia.

The Commissioner is satisfied that there is an Australian industry producing like goods which comprises one Australian producer, OneSteel. The Commissioner has had regard to the information verified at the visit to OneSteel, as well as the matters discussed in the visit report, in preparing this report.

4.3 Importers

Following the initiation of this investigation, the Commission identified the importers of rebar from China. Four of these importers accounted for 98 per cent of imports of rebar from China during the investigation period. They were considered to be ‘major’ importers and were sent Importer Questionnaires.

The Commission received responses from the following importers:

- Commercial Metals Company Pty. Ltd (CMC);
- Stemcor Australia Pty. Ltd.(Stemcor); and
- OKK Pty Ltd. (OKK).

The data submitted by CMC and Stemcor has been verified by the Commission in terms of its relevance, completeness and accuracy. Both CMC and Stemcor cooperated with the investigation and provided their internal records and source documents for their import and sales transactions. OKK provided a complete response to the importer questionnaire. However, OKK’s Chinese supplier did not cooperate with the investigation. Therefore, the Commission did not use OKK’s data in its analysis.

The importer verification reports are published on the public record.[8]

4.4 Market distribution

The Australian rebar market is supplied by OneSteel, importers that sell to end-users, and end-users that import rebar.

The Commission has found that OneSteel sells rebar to related and unrelated entities. The unrelated entities that purchase from OneSteel also compete in the same markets as OneSteel’s related entities.

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[8] See numbers 31 and 36 on the public record.

End-users purchase rebar from a number of sources including OneSteel, OneSteel's related entities, exporters, overseas traders, or local steel importers. OneSteel's related entities source their entire supply of rebar from OneSteel, although OneSteel also imports a small volume of rebar.

Further information on market distribution is available in the visit report to OneSteel and the PAD which are available on the public record.

4.5 Demand variability

The Commission has found that demand variability is driven by the following major market segments for rebar:

- residential;
- commercial; and
- engineering construction (including mining and infrastructure).

OneSteel has indicated that the commercial construction segment is the main driver of demand for rebar.

4.6 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 found that purchasers of rebar do not incur high costs switching from one supplier to another.

The Commission has also found that product and brand differentiation is minimal as long as the products carry a current Australian Certification Authority for reinforcing and Structural Steels (ACRS) certification, meet the requisite standard (AS/NZS 4671.2001) and satisfy certain chemical, mechanical, quality and tolerance criteria.

4.7 Market size

The Commission estimates that sales of rebar in the Australian market during the investigation period were approximately 900,000 tonnes. A summary of the market growth for rebar for the financial years 2011/12 to 2014/15 is shown in Figure 1.

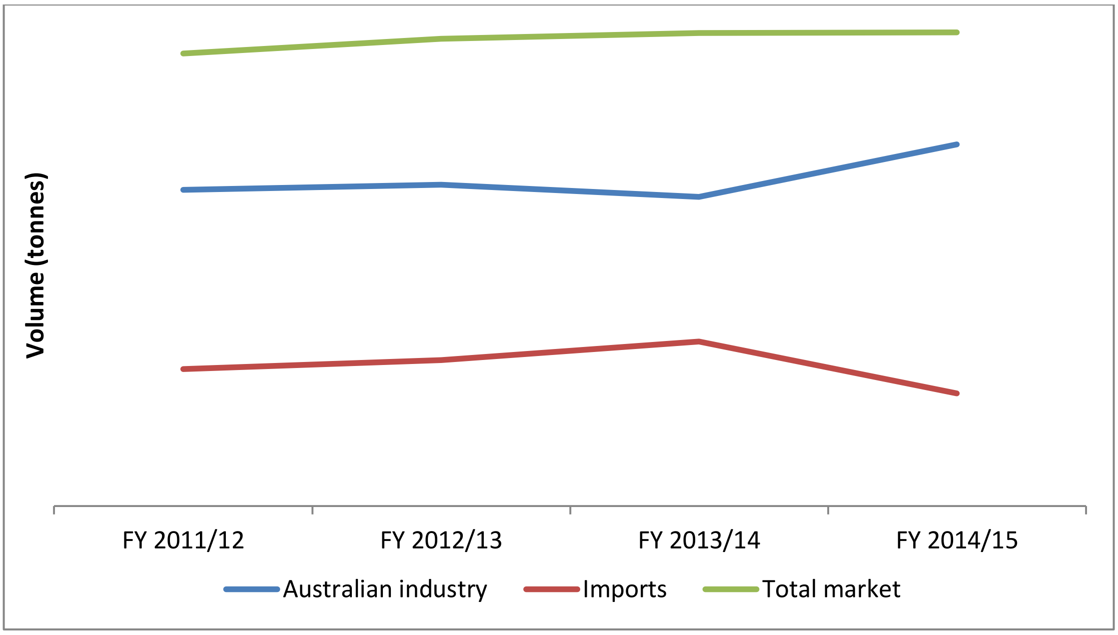

Figure 1 – Australian Rebar Market and Australian Industry Sales (Tonnes)

From 2011/12 to 2014/15, the size of the Australian market for rebar has steadily grown, but at a declining rate, over the period. Over the same period, the Australian industry's sales volume declined from 2012/13 to 2013/14. However, it increased from 2013/14 to 2014/15. During the latter period, import volume decreased.

Further details of the Australian market for rebar are at **Confidential Appendix – Australian Market**.

5 DUMPING INVESTIGATION

5.1 Introduction

In order to determine whether dumping has occurred, the export price and normal value of the goods must be compared.[9] Dumping occurs when a product from one country is exported to another country at a price less than its normal value. 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.

5.2 Findings

The Commissioner has found that rebar exported to Australia from China by:

- Shandong Shiheng Special Steel Group (Shiheng);
- Shandong Iron and Steel Company Limited, Laiwu Company (Laiwu);
- Jiangsu Yonggang Group Co. Ltd.(Yonggang);
- Hunan Valin Xiangtan Iron & Steel Co. Ltd. (Hunan Valin); and
- uncooperative and all other exporters

was at dumped prices during the investigation period. The Commissioner has also found that the volume of dumped goods was not negligible during the investigation period.

5.3 Exporters

At the commencement of the investigation, the Commission identified and contacted all exporters from China of the goods within the relevant tariff subheadings for rebar, as identified in the Australian Border Force (ABF) import database.

5.3.1 Exporter Questionnaires

The Commission contacted each identified exporter of the goods and invited them to complete an Exporter Questionnaire, which requested information necessary to determine whether goods were exported at dumped prices.

5.3.2 Exporters

The Commission received questionnaire responses that were assessed as being substantially complete from:

- Shiheng;

[9] Subsection 269TACB(1)

- Laiwu;
- Yonggang; and
- Hunan Valin.

These exporters have cooperated with the investigation.

The Commission has verified the data submitted by these exporters and visited Shiheng and Laiwu. Verification reports for Shiheng and Laiwu and dumping margin reports for Yonggang and Hunan Valin are available on the public record.[10]

Individual dumping margins are calculated using verified information for each of the cooperating exporters.

A number of contacted exporters responded to the Commission's letter stating that their companies did not export rebar from China to Australia during the investigation period. The tariff classifications used to identify these exporters are broadly defined and encompass a number of different products other than rebar. As a result, the Commission removed these companies from the exporter list. The Commissioner is satisfied all remaining exporters are uncooperative exporters for the purposes of this investigation as defined in subsection 269T.

5.4 Particular market situation

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

OneSteel claimed that a particular market situation exists in the Chinese domestic market for rebar that renders the domestic sales unsuitable for normal value calculations. OneSteel's claims in relation to China allege that rebar 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 view that there is a particular market situation in China and the Chinese domestic rebar prices are not suitable to be used for establishing normal values under section 269TAC(1).

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

5.5 Submissions received prior to the SEF

The Commission received several submissions regarding costs to manufacture rebar in China and the choice of benchmark pricing for steel billet. The Commission's consideration of those submissions was described in the SEF. A copy of the SEF is available on the public record.

[10] See document numbers 41,42, 46 and 47 on the public record.

Since the publication of the SEF, the Commission has received a number of submissions. These submissions include discussion and claims related to these matters. In this report, the Commission’s consideration of submissions received in response to the SEF addresses all pertinent matters that have been raised.

5.6 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[11] or third country sales.[12]

The Commission considers that influence of the GOC in the Chinese rebar market would similarly affect the selling prices of rebar 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 in accordance with sections 43,44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation).

Subsection 43(2) of the Regulation 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.

As discussed in Appendix 1, the Commission considers that the significant influence of the GOC has distorted prices in the steel industry and rebar 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) raw materials used to make steel in China, rendering them unsuitable for cost to make and sell (CTMS) calculations.

The Commission considers that the GOC influence in the iron and steel industry is most pronounced in the parts of that industry that might be described as upstream from rebar production. In particular, GOC-driven market distortions have resulted in artificially low prices for the key raw materials, as well as the other inputs associated with the production of the steel billets.

The Commission considers that direct and indirect influences of the GOC affect Chinese manufacturers’ costs to produce steel billet and therefore that Chinese exporters’ records do not reflect competitive market costs. The Commission has found that steel billet costs comprise 80 to 85 per cent of rebar CTMS.

11 Subsection 269TAC(2)(c)

12 Subsection 269TAC(2)(d)

5.7 Submissions in response to the SEF in respect of substitution of billet costs

In their submissions dated 28 February 2016, both Yonggang and Shiheng submitted that the Commission has not been transparent in its discussion of production inputs that it has found to not reflect competitive market cost.[13] Yonggang and Shiheng submitted that this is inconsistent with SEFs of other investigations which detail the directly purchased input found to not reflect competitive market costs. Yonggang and Shiheng further submitted that, unlike in those other SEFs, the Commission does not appear to have performed any analysis of the purchased raw materials used by the exporters in the production of steel reinforcing bars to assess the reasonableness of those costs like the cost of iron ore, which is the largest cost input for rebar.

Yonggang and Shiheng both submitted that in calculating their normal values, the Commission should have regard to their billet production costs and should have made adjustments only to those particular raw materials that the Commission deems not to reflect competitive market cost. Both Yonggang and Shiheng claimed that their iron ore purchases were reflective of competitive market costs associated with the production and sale of rebar.

Yonggang and Shiheng also submitted that the Regulations concerning constructing normal values is incompatible with the *Anti-Dumping Agreement*. In both Yonggang and Shiheng's view, the Agreement outlines one of the requirements as being that the exporter's records reasonably reflect the costs associated with the production and sales of the product under consideration; whereas the Regulation outlines this requirement as being that the records must reasonably reflect competitive market costs associated with the production or manufacture of like goods.

Hunan Valin also submitted that the Anti-Dumping Agreement requires that constructed normal values be calculated on the basis of records kept by the exporter or producer under investigation provided that two conditions are satisfied: (1) the exporter's records are in accordance with the generally accepted accounting principles of the exporting country and (2) the exporter's records reasonably reflect the costs associated with the production and sales of the product under consideration. Hunan Valin further submitted that if there is a market situation in China, the benchmark price can be only applied to the inputs of raw materials, rather than any semi-product (i.e. steel billet), because the alleged influence of the GOC can only distort price, rather than 'volumes of consumption' or 'any other conversion cost' which are key factors in the cost of semi and final products. Hunan Valin claimed that the Commission's approach deviates from subsection 269TAC(2)(c), Regulation 180(2) and the *Dumping and Subsidy Manual*.

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[13] See document numbers 51 and 52 on the public record.

5.7.1 The Commission's consideration

The Commission considers that GOC-driven market distortions are not limited to the most significant key raw materials but also include the other inputs associated with the production of the steel billets. In responding to the exporters' submissions in relation to the Commission's decision to conduct an assessment of competitive market costs on steel billet levels, the Commission notes the following facts:

- Unlike some of the products that form the basis of SEF reports Yonggang and Shiheng refer to in their submissions, rebar manufacturing requires a number of direct input materials, most of which can be assessed to be material in relation to calculation of cost to make and sell (CTMS) of billet. These are:
    - iron ore;
    - coking coal and/or coke;
    - coal;
    - various alloys (chromium, vanadium, magnesium, boron etc.);
    - pig iron;
    - natural gas;
    - electricity;
    - water;
    - oxygen;
    - nitrogen;
    - steam;
    - lime;
    - dolomite;
    - auxiliary materials and
    - scrap steel.
- None of the exporters' CTMS or raw material purchases information contains sufficient details of these items for the Commission to be able to undertake a comprehensive analysis of all these inputs.
- Some of these raw materials are being sourced in various types and grades. For example, coal expenses are generally expressed as one figure for each product model in the CTMS spreadsheet but may actually contain a mixture of:
    - gas coal;
    - gas-fat coal;
    - fat coal;
    - high-sulphur fat coal;
    - lean coal;
    - coking coal;
    - high-sulphur coking coal;
    - anthracite;
    - North Korean coal;

  - soft coal and;
  - meagre lean coal.
- It is evident that each of these sub-groups of raw materials would have their own competitive market costs and often these costs are incomparable with any other sub-group's competitive market cost.
- Apart from the difficulties in identifying a reliable competitive market cost basis for all these different sub-groups of products, as the certain amount or proportion of all these sub-groups of raw materials are not known, an accurate substitution of these costs with competitive market costs is not possible.
- The Commission also observed that certain raw materials were being sourced in semi-finished or further processed forms from the Chinese domestic market. For example, the Commission verified that Chinese exporters were purchasing further processed iron pellets from their domestic market but record these purchases as iron ore in their accounting systems. This causes similar types of complexities in determination of competitive market costs and substitution of distorted costs with competitive market costs in a precise manner.

As explained in section 8.9.3, the Commission compared the cooperating exporters' billet costs with the selected benchmark billet costs. This comparison of costs at billet level supports the Commission's view that direct and indirect influences of the GOC affect Chinese manufacturers' costs to produce steel billet. The Commission is also mindful that steel billets comprise 80 to 85 per cent of the total cost to make and sell of the rebar and a substitution of costs at billet level enables the Commission to account for the influences from GOC on the input costs (apart from the cost of conversion from billet to rebar and cost of selling) that would otherwise not be accounted for.

As such, the Commission considers that a comparison of steel billet costs of cooperating exporters with competitive market costs provide a more precise and comprehensive assessment of the GOC's influence than undertaking such an assessment individually for each of the input cost identified above. Therefore, the Commission is of the view that a comparison at steel billet level is the most reasonable and meaningful approach for the assessment of the costs in Chinese exporters' records.

The Commission considers that its approach complies with section 43 of the Regulations.

5.8 Submissions in response to the SEF in respect of selection of benchmarks for billet costs

In the SEF, the Commission considered that an appropriate benchmark for steel billet costs in China was the average monthly prices paid in the East Asia region for billet imports minus an average of rate of domestic profit of cooperating Chinese exporters from sales of steel billets in their domestic markets. East Asian steel billet prices were supplied from McGraw Hill Financial Service (Platts) at cost and freight (CFR) terms.

5.8.1 OneSteel's submission

OneSteel submitted that the Commission's use of the East Asian billet benchmark is inappropriate as the East Asian steel billet import prices contain Chinese export price data.[14] OneSteel submitted that by choosing East Asian billet import prices, the Commission has inadvertently introduced Chinese steel prices, which is inconsistent with the aim of constructing a benchmark that reasonably reflect competitive market costs associated with the production or manufacture of like goods. OneSteel provided confidential and non-confidential evidences to support its claim.

OneSteel submitted that the Commission should, in selecting an appropriate competitive domestic benchmark market, have regard to the degree of penetration of the domestic market by Chinese steel billet, traded as alloyed square bar. OneSteel cites research of Wood Mackenzie to claim that South Korean, southeast Asian and Middle Eastern markets should be avoided as representative of competitive markets not affected by Chinese prices. OneSteel submitted that the Commission should have regard to United States, European Union or African (particularly South African) domestic billet prices.

OneSteel further submitted that in the past, the Commission has based external benchmarks on other country's domestic price information to mitigate the issue of market distortions. OneSteel submitted that, as there is no verified or reliable domestic price information available for this investigation, the Commission should use published price information from MEPS (International) Ltd. (MEPS). OneSteel argued that if South African billet costs were to be selected as a competitive market benchmark cost, then it would address the Commission's objection to the use of a benchmark based on an Electric Arc Furnace (EAF) steelmaking route. OneSteel stated in its submission that the Commission's objection to the use of a benchmark based on the EAF method ignores the fact that regardless of the steelmaking route followed, products compete in the same end-market where competitive market conditions are present. OneSteel claimed that, in terms of commercial grade/quality billet, billet produced via the blast furnace and basic oxygen furnace route is completely substitutable with steel billet produced via the EAF process. OneSteel urged the Commission to consider South African domestic steel prices published by MEPS.

5.8.2 Exporters' submissions

Yonggang in response to OneSteel's submission on 29 February 2016 submitted that the Commission should continue to have confidence that the South East Asian benchmark provides the most appropriate basis upon which to replace Yonggang's billet costs.[15] In its submission Yonggang states that:

- MEPS also publishes South East Asia steel billet import prices at CFR levels in its reports. In the footnote of these reports, MEPS states that,

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[14] See document number 54 on the public record.

[15] See document number 59 on the public record.

South East Asian steel billet prices are based on average import offers to Indonesia, Malaysia, Philippines and Vietnam. Yonggang submits that MEPS South East Asia billet prices are consistent with corresponding prices published by other reputable service providers including Steelfirst and Platts. As a result, Yonggang claims that it stands to reason that MEPS and SBB provides reference to Asian regional billet prices unaffected by Chinese billet export prices.

- There is little correlation between MEPS Chinese export billet prices and corresponding South East Asian import billet prices.

Yonggang contests OneSteel's view that a benchmark should be based on external domestic prices. Yonggang submits that in US - Softwood Lumber IV Appellate Body findings referred to by OneSteel, the Appellate Body did not preference external domestic prices and highlighted the difficulties associated with relying on these prices.

Yonggang also contests OneSteel's view that the Commission should establish a benchmark based on South African billet prices. Yonggang claims that South African steel market is heavily protected by tariffs and does not reflect an open competitive market.

5.8.3 The Commission's consideration

In SEF 300, the Commission considered that it was unlikely that the East Asian steel billet import index included Chinese steel billet sales due to the 25 per cent export tax on steel billets in China. The data available to the Commission did not show any significant steel billet exports from China to East Asia region. Moreover, the Commission's understanding of rebar manufacturing costs and pricing structures indicated that Chinese exporters are not able to export steel billets profitably due to the extra burden caused by export tax.

Following OneSteel's submission that East Asian steel billet import prices are subject to significant influence from goods exported from China, the Commission assessed the evidence provided by OneSteel and searched for further evidence suggesting Chinese steel billet exports' penetration in East Asian steel billet import prices.

The Commission undertook to analyse the weekly *World Steel Reports* covering the whole investigation period, published by Platts, the publisher of the benchmark utilised in the SEF calculations. The Commission noted that a substantial number of references were included within the billet section of commentary regarding the East Asian Billet index, and to a lesser but still significant extent, Turkey, being impacted by Chinese billet exports. As such, the Commission became concerned that both East Asian and Turkish benchmarks were influenced by Chinese billet exports, which in turn were subject to a market situation finding due to influence of the Government of China. This was further reiterated through correspondence with Platts (**Confidential Attachment - Benchmark**) which confirmed that the price assessment is heavily weighted by Chinese billet trades.

Therefore, the evidence before the Commission strongly suggests that, despite the existence of export tax on steel billets in China, there are significant volumes of

Chinese steel billets being traded in East Asia and Turkey. It is highly likely that Chinese billet prices have distorted steel billet prices in both the East Asia and Turkey steel billet indexes. Consequently, the Commission considers that East Asian steel billet prices do not constitute an appropriate benchmark for competitive market costs of steel billets in China as the index itself appear to be affected by Chinese steel billet prices. For the same reasons, the Commission does not consider Turkish import or export steel billet price indexes as appropriate benchmarks for competitive market costs of steel billets in China either.

The Commission received a submission from OneSteel that the South African benchmark data would be appropriate based on the mix of production between blast furnace and electric arc furnace steel making as a proportion of overall production. The Commission has significant concerns with South African domestic steel billet prices due to the existence of import tariffs in South Africa. In addition the South African domestic steel market is relatively shallow and may not show the same competitive characteristics with a price index having a larger geographical base and more depth in terms of transaction volumes.[16] As such, the Commission does not consider that the South African domestic steel billet prices would constitute an appropriate benchmark for competitive steel billet costs.

5.9 Selection of benchmark for steel billet costs

In the SEF, the Commission evaluated alternate considerations to find appropriate competitive market costs for Chinese manufacturers' steel billet costs. The Commission decided that the most reasonable approach was to use an external benchmark.

Following OneSteel's submission in relation to the Commission's selection of benchmark in the SEF, the Commission evaluated other reliable sources of data that would constitute a benchmark for competitive market cost for steel billets. The Commission considers that the Latin American steel billet export prices at FOB level that is published by Platts, forms an independent and reliable basis for the competitive market costs.

World Steel Association's statistics shows that in excess of 63 million tonnes of crude steel was produced in Latin American region in 2014.[17] The Latin America region includes two of the top 13 countries, Brazil and Mexico, based on crude steel production volumes. Consequently, the Commission considers that the Latin America region has sufficient volume to reflect competitive market conditions. In addition, the Commission notes there are significant reserves of iron ore within the Latin America region which are mined and exported in large volumes. Of the iron ore exported from Central and Southern America, over half was directed to China, and the amount directed to China was greater than the amount consumed regionally. The Commission considers that this reflects a consistent cost point for a significant raw material that is included in the cost of steel billet.

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[16] South Africa ranked 21st overall in crude steel production, producing 6.5 million tonnes of crude steel in 2014

[17] https://www.worldsteel.org/dms/internetDocumentList/bookshop/2015/World-Steel-in-Figures-2015/document/World%20Steel%20in%20Figures%202015.pdf

Based on the depth of the market, and the geographic distance from China minimising the potential distortions of GOC influenced billet prices impacting on the Latin American billet export prices, the Commission considers that the Latin American export billet prices in FOB terms represent the best available information for competitive market costs of steel billets.

As such, an amendment to the position within the SEF is made in this report, with the benchmark being changed to the Latin American Billet FOB export prices from Platts instead of the South East Asian CFR import prices from Platts.

5.9.1 Submissions in respect of adjustments to the steel benchmark for competitive costs

OneSteel

OneSteel submitted that, notwithstanding its objection to the South East Asian billet benchmark, the Commission should make an upwards physical adjustment to the benchmark price, which OneSteel claims is base or commercial grade/quality billet.[18] OneSteel submits that two physical adjustments are necessary to account for the difference between domestic and export sales in terms of quality:

- in order to achieve ACRS certification, the export goods must achieve a minimum yield strength of 500 MPa, which OneSteel estimates as being $24/tonne according to the Metal Expert publication; and
- the addition of a greater microalloy (vanadium) amount is required to meet minimum yield strength, compared to the amount required for the base quality billet.

Exporters

In its submission, Yonggang contested OneSteel's view that the Commission should make an additional alloy adjustment to the benchmark price.[19] Yonggang submitted that it has provided evidence to the Commission to show that its exports of rebar to Australia were not micro-alloyed.

Hunan Valin submitted that if the Commission insists on using a benchmark price, it should ensure that the price is at the same level of comparability.[20] Hunan Valin submitted that the Commission has incorrectly used the CFR benchmark price, which includes export moving expenses, CTM, SG&A and supplier profit, rather than simply using the cost of the billet. Hunan Valin further submitted that the Commission should adjust the CFR benchmark price to the ex-works level, exactly as the Commission did for the profit part of the billet, so as to remove the ocean freight cost. Hunan Valin provided the Commission with two exhibits, which quantified the ocean freight rate applicable to East Asia region.

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[18] See document number 54 on the public record.
[19] See document number 59 on the public record.
[20] See document number 60 on the public record.

5.9.2 The Commission's consideration

In relation to OneSteel's submission claiming that a physical upwards adjustment to normal values is needed, the Commission notes that it is possible to achieve the desired minimum yield strength using different production methods and microalloying is one of these methods. The Commission is aware that the rebar exported from China to Australia should meet Chinese Government's chemical composition requirements for being eligible for VAT rebate for "alloyed" steel products. The Commission understands that AS 4671 requires that the steel reinforcing bar complying with this standard shall be deemed to be weldable under the conditions specified for each class in AS 1554.3. However AS 4671 does not set any requirement or minimum percentage in the steel's chemical composition for vanadium or any other microalloy elements. It follows that, in order to be compliant with the AS 4671 standard, Chinese exporters do not need to add any certain percentage of vanadium (or any other microalloys) to their products. The Commission has evidence showing that cooperating Chinese exporters added different types of microalloys in varying percentages in their products and in some cases Chinese exporters utilised other methods like thermo-mechanical processes to achieve the required minimum yield strength. As a result, the Commission does not agree that an adjustment to the benchmark is required for the greater percentage of microalloys in the rebar sold to Australia.

In relation to removal of ocean freight component from the selected benchmark, the Commission acknowledges that the East Asian steel billet import prices from Platts was assessed on a CFR basis, and as such, contained an amount of overseas freight that should not be included. However, the Commission notes that the former selected benchmark was reflecting a CFR price point to an East Asian port. In SEF 300, the Commission considered that, notwithstanding the fact that there will be an ocean freight component in the CTMS of the billets in that benchmark, the benchmark itself represented the best available information for the prevailing prices in East Asian region. The Commission also noted that due to the opacity of the East Asian Benchmark, it was not possible to reliably separate the overseas freight related costs from the index.

However, as explained in section 5.9 above, the Commission identified that the East Asian steel billet price index is not an appropriate benchmark for competitive market costs and considers that Latin American steel billet export prices at FOB level constitute the best available information for the competitive market costs of steel billets. This benchmark is expressed in FOB terms; therefore, it does not include an overseas freight component within. The Commission is of the view that selection of a benchmark at FOB level should eliminate the exporters' concerns regarding the cost of ocean transport within the benchmark.

5.9.3 Determination of market costs for billets using the selected benchmark

The Commission notes that all cooperating exporters are integrated manufacturers of steel products, including rebar. As such, the Commission acknowledges that 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 Commission considers that the GOC influences in the iron and steel industry are wide ranging and affect competitive market supply of production inputs including (but not limited to) 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 compared the monthly free-into-store level benchmark steel billet prices (Latin American FOB level steel billet export prices from Platts) with the cooperating exporters' monthly fully absorbed steel billet cost to make (CTM) values. The Commission notes that in each case, Chinese exporters' steel billet CTM values were lower than the corresponding benchmark in the same month.

For the purposes of calculating dumping margins, the Commission substituted the cooperating exporters' fully absorbed steel billet CTM values with the corresponding Latin American FOB level steel billet export price from Platts for the month minus an average rate of profit for billet sales the Chinese exporters realized for the sale of billets in their domestic market.

The Commission received a number of submissions in relation to its approach to calculation of competitive market costs for Chinese exporters' steel billets. The sections below summarise the submissions on this matter and the Commission's consideration.

5.9.4 Submissions in respect of adjustments to benchmark to calculate market costs

Exporters

Shiheng and Yonggang submitted that should the Commission pursue the application of a steel billet benchmark, it should make a downwards adjustment to the steel billet benchmark cost to address the revenue generated from the production of by-products through the billet production process.[21] [22] Both Shiheng and Yonggang submitted that these by-products are not associated with the GOC's policies highlighted by the Commission in its market situation assessment, and therefore should be taken in account in deriving a replacement steel billet benchmark price.

OneSteel

OneSteel submitted that for the downwards adjustment to the benchmark cost, it does not consider the profit rate of Chinese producers of billet to be relevant, but rather if a downwards adjustment is to be made, it should be based on the verified profit of the non-Chinese seller of the billet the subject of the competitive benchmark.[23] OneSteel submits that the Commission's approach applies an irrelevant profit rate from one market (i.e. Chinese domestic market which is subject to a particular market situation) to an unrelated market.

[21] For Yonggang's submission, see document number 51 on the public record.

[22] For Shiheng's submission, see document number 52 on the public record.

[23] See document number 54 on the public record.

OneSteel also contested the Commission's approach, and the Dumping and Policy Manual guidance, related to identifying the date of sale. OneSteel submitted that the Commission should identify the date of sale as being the date of acceptance of the purchase order by the importer or trader placed on the producer or exporter. OneSteel submitted that general terms and conditions of such sales typically allow the seller some flexibility (within an acceptable variance) in relation to the delivered volume and delivery date. OneSteel submitted that if the date of sale is not identified as the time of the purchase order, then the resulting dumping margins are understated.

5.9.5 The Commission's consideration

In relation to Shiheng and Yonggang's claims in relation to an adjustment for by-products, the Commission considers that having by-products as a result of the steel billet production process is not peculiar to Chinese manufacturers. The Commission is of the view that the exporters from the Latin America region should also have similar amount and value of by-products and any by-products that are the result of steel billet manufacturing process should already have been priced in the selected benchmark prices. Consequently, the Commission does not consider that an adjustment to competitive market costs is required for the by-products of steel billet production.

In relation to OneSteel's opposition to deduction of Chinese exporters' profits from the selected benchmark to reflect the cost of production of steel billets, the Commission stresses that the selected benchmark (Latin American FOB level export prices) reflects the sales prices of steel benchmarks in competitive markets. The Commission considers it reasonable to take out the verified average profit rate realised by Chinese exporters from sales of steel billets in order to calculate the competitive market costs of steel billets. In response to OneSteel's criticism for usage of profit rates realised by Chinese exporters in a market that is affected by a particular market situation, the Commission notes that, actual verified domestic profits from the sales of like goods are utilised in constructing the normal values for the Chinese manufacturers in a similar fashion.

In relation to OneSteel's remarks in relation to determination of date of sale, the Commission iterates that it considers that the invoice date is verified to be reflective of the date of sale. However, the Commission also stresses that in calculating dumping margins, the Commission has had regard to the production date of the goods being sold and the normal values were constructed based on the benchmark value on the month of the production date. Therefore, the Commission does not agree that the dumping margins were understated by the erroneous selection of the date of sale.

5.10 Model matching

The Commission applied model matching criteria based on minimum yield strength, form (straight or coil) and diameter. In addition to these criteria, the Commission had regard to the ductility rating of the products. The Commission applied the most appropriate criteria depending on the specific circumstances of each exporter.

As the normal values are constructed based on subsection 269TAC(2)(c), the Commission notes that the most important criteria for the purposes of model matching was the grade of billet consumed in production of the rebar.

5.11 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 rebar 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:

- Shiheng;
- Laiwu;
- Yonggang; and
- Hunan Valin.

The Commission visited the following exporters and verified information relating to costs, domestic sales and exports to Australia during the investigation period:

- Shiheng; and
- Laiwu.

Verification reports for Shiheng and Laiwu and Dumping margin reports for Yonggang and Hunan Valin are available on the public record.

5.12 Uncooperative exporters

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

At the initiation of this investigation, the Commission wrote to all known exporters of rebar from China and invited them to participate in the investigation by providing a response to the exporter questionnaire. A number of these exporters responded to the Commission's letter by stating that their companies did not export rebar from China to Australia during the investigation period. The tariff classifications used to identify these exporters are broadly defined and encompass a number of different products other than rebar. As a result, the Commission removed these companies from the exporter list. All remaining exporters are considered uncooperative exporters for the purposes of this investigation as these exporters did not provide information relevant to the investigation within a reasonable period.

5.13 Dumping margin calculations

5.13.1 Shandong Shiheng Special Steel Group

In its exporter questionnaire response, Shiheng stated that it also exported to Australia through its related trading entity, Hong Kong Lutai (HK Lutai). Shiheng also stated that all the products sold by HK Lutai are manufactured by Shiheng and are dispatched from Shiheng's premises in China. For the purposes of this investigation, the Commission considers Shiheng and HK Lutai as one entity and all exports via HK Lutai are considered to be exported by Shiheng.

The Commission conducted a verification visit at Shiheng's offices and verified information relating to costs, domestic sales and exports to Australia during the investigation period.

5.13.1.1 Submissions received:

Following the SEF, Shiheng submitted that the dumping margin calculation does not reflect the Commission's statement in SEF 300 that an additional inland transport cost is not needed to be added to the East Asian billet benchmark prices. In its submission, Shiheng requested that the Commission remove the inland transport cost from the steel billet benchmark, given that Shiheng does not incur any such cost in the production of steel billet.[24]

In the same submission, Shiheng claimed that in constructing normal values, the Commission applied Shiheng's actual SG&A rate to the uplifted cost to make and sell which resulted in unit SG&A costs that are greater than the actual SG&A costs Shiheng incurred. Shiheng requested that the Commission revise the constructed normal value calculations to ensure that SG&A expenses accurately reflect the costs recorded in Shiheng's records.

Shiheng further submitted that the Commission has made an error in adjusting for bank charges in constructing normal values. Shiheng claimed that its bank charges were already included within the financial expenses of the SG&A. Shiheng pointed that there was a separate ledger account referred to as 'bank charges' in its SG&A calculation workbooks.

5.13.1.2 The Commission's consideration

In responding to Shiheng's claim in relation to non-removal of inland transport charges from the selected benchmark, the Commission notes that Shiheng did not request to review the amended dumping margin calculations for the SEF as the dumping margin had not changed. Shiheng's dumping margin calculations for the purposes of SEF did not include an inland transport component. Similarly, Shiheng's dumping margin calculations after revision of selected benchmark also does not include an inland transport component.

In relation to calculation of SG&A costs, the Commission is of the view that although SG&A includes variable costs that are correlated with cost to make value

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[24] See document no 52 on the public record.

such as financial costs, the Commission considered that it is reasonable to accept that Shiheng's domestic SG&A figure would not be materially different when Shiheng's cost to make and sell figures are adjusted to reflect competitive market costs. Therefore, the Commission revised Shiheng's SG&A costs and rather than calculating SG&A figures as a percentage of CTMS, used Shiheng's SG&A costs as verified in its CTMS spreadsheets.

In relation to inclusion of bank charges in the normal value calculations, the Commission considers that any charges that are directly related to export sales should not be included in the calculation of domestic SG&A. As the normal values are constructed by adding domestic SG&A to the CTM of rebar exported to Australia, the Commission does not consider a double counting of bank charges occurred.

Export Prices

Export prices for exports of rebar to Australia by Shiheng and HK Lutai were determined under subsection 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation. Shiheng's export prices are at **Confidential Appendix – Shiheng 1**

Normal Values

Normal values were calculated under subsection 269TAC(2)(c) and based on constructed costs using benchmark steel billet prices[25] plus SG&A on the assumption that the goods, instead of being exported, were sold domestically.[26] A rate of profit has been added using data related to the production and arm's length sales of like goods in the ordinary course of trade.[27]

Due to rebar and steel billet prices showing significant fluctuation during the investigation period, the Commission calculated normal values for monthly periods and these normal values are compared with monthly export prices during the investigation period.

Shiheng's Australian and domestic CTMS and uplift calculations are at **Confidential Appendix – Shiheng 2.**

Shiheng's domestic sales listing and ordinary course of trade test are at **Confidential Appendix – Shiheng 3**.

Shiheng's normal value calculations are at **Confidential Appendix – Shiheng 4.**

Shiheng's dumping margin calculations are at **Confidential Appendix – Shiheng 5.**

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[25] An average rate of domestic profit from sales of billets is deducted from the Latin American FOB level steel billet prices and Shiheng's monthly billet manufacturing costs are substituted with this benchmark.

[26] Subsection 269TAC(2)(c).

[27] As per section 45 of the Regulation and based on Shiheng's actual CTMS data without the substitution of steel billet costs with selected benchmark.

Adjustments

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 following adjustments are required for maintaining price comparability pursuant to subsection 269TAC(9):

Adjustment type	Description
Bank charges	**Add** an amount for bank charges related to exports.
Export inland freight, handling and port charges	**Add** an amount for export inland freight, handling and port charges.
ACRS accreditation fee	**Add** an adjustment to normal values for the ACRS accreditation fee
HK Lutai's margin	**Add** an adjustment for HK Lutai's verified profit for exports to Australia through that company.
Non-refundable value-added tax (VAT)	**Add** the amount of non-refundable portion of VAT on exports

Table 2: Adjustment to normal value to ensure comparability to export price

Weight Basis

The Commission observed that Shiheng sells in either actual or theoretical weight bases both in its domestic and export markets. Where the sale is made on a theoretical weight basis, in each case, Shiheng keeps a record of actual weights of these sales. In calculating dumping margins, the Commission converted all weights to actual and calculated domestic and export sales prices based on actual weights.

Dumping Margin

The Commission compared the weighted average of monthly export prices over the whole of the investigation period with the weighted average of monthly corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Shiheng for the investigation period is **15.3 per cent**.

Shiheng's dumping margin calculations are at **Confidential Appendix – Shiheng 5.**

5.13.2 Shandong Iron and Steel Company Limited, Laiwu Company

In its exporter questionnaire response, Laiwu stated that it utilised its related company, Shandong Laiwu Steel International Corp. (LSIC) as an agency. For the purposes of this investigation, the Commission considers Laiwu and LSIC as one entity and all exports via LSIC are considered to be exported by Laiwu.

The Commission conducted a verification visit at Laiwu's office and verified information relating to costs, domestic sales and exports to Australia during the investigation period.

Export Prices

After reviewing the Commission's dumping margin calculations in SEF 300, Laiwu advised the Commission that it considers as the Commission converted its theoretical weight based costs to actual weight based costs to reflect the effects of rolling light, its Australian sales prices should also be adjusted to reflect the prices per actual weights for fair comparison.

The Commission considers Laiwu's request reasonable and adjusted Laiwu's Australian sales prices to reflect prices per actual sales weights. Export prices for exports of rebar to Australia by Laiwu and LSIC were determined under subsection 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation.

Laiwu's export prices are at **Confidential Appendix – Laiwu 1**.

Normal Values

Normal values were calculated pursuant to subsection 269TAC(2)(c) and based on constructed costs using benchmark steel billet prices plus SG&A on the assumption that the goods, instead of being exported, were sold domestically. At the verification visit, the verification team noted that Laiwu's domestic CTMS in its exporter questionnaire response did not reconcile with Laiwu's accounting records. Consequently, the Commission could not calculate Laiwu's domestic profit rate from the sale of like goods. Instead, the Commission added to the normal value a profit rate based on the weighted average of the actual amounts realised by other exporters from the sale of the goods in the domestic market in China as per subsection 45(3)(b) of the Regulation. The profit rates from other exporters are calculated based on the exporters' CTMS figures without the substitution of steel billet costs with selected benchmark.

Due to rebar and steel billet prices showing significant fluctuation during the investigation period, the Commission calculated normal values for monthly periods and these normal values are compared with monthly export prices during the investigation period.

Laiwu's domestic sales listing is at **Confidential Appendix – Laiwu 2**.

Laiwu's CTMS calculations are at **Confidential Appendix – Laiwu 3**.

Laiwu's normal value calculations are at **Confidential Appendix – Laiwu 4**.

Adjustments

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 transport, handling and other charges	**Add** weighted average actual export inland transport costs to the constructed domestic pricing.
Export Letter of Credit costs	**Add** weighted average export letter credit costs per tonne to the constructed domestic pricing.
Export Sales Commission	**Add** commission amount to the constructed domestic pricing.
ACRS accreditation costs	**Add** weighted average costs of ACRS accreditation during the investigation period.
Non-refundable value-added tax (VAT)	**Add** the amount of non-refundable portion of VAT on exports

Table 3: Adjustment to normal value to ensure comparability to export price

Weight Basis

The Commission observed that Laiwu sells in either actual or theoretical weight basis both in its domestic and export markets. Where the sale is made on theoretical weight basis, in each case, Laiwu provided a tolerance range depending on the relevant standard's allowable weight tolerance limits. By using these weight tolerances and assuming that Laiwu is capable of achieving weights that are within 2 per cent of the tolerance limits, the Commission converted all weights to actual and calculated domestic and export sales prices based on actual weights in calculating dumping margins.

Dumping Margin

The Commission compared the weighted average of monthly export prices over the whole of the investigation period with the weighted average of monthly corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Laiwu for the investigation period is **16.4 per cent**.

Laiwu's dumping margin calculations are at **Confidential Appendix – Laiwu 5**.

5.13.3 Jiangsu Yonggang Group Co. Ltd.

5.13.3.1 Submissions received in relation to Yonggang's dumping margin calculations in the PAD

After reviewing the Commission's dumping margin calculations in SEF 300, in its submission dated 28 February 2016, Yonggang submitted the following issues in relation to the method followed by the Commission in calculation of its normal values:[28]

1. Yonggang argued that in construction of its normal value, its profit was accounted for twice, which resulted in a normal value higher than it ought to be.
2. Yonggang submitted that the weighted average monthly conversion costs in its normal value calculations should not include the conversion costs of domestically sold goods and only be based on the goods exported to Australia. Yonggang submitted that the conversion costs differ between domestic and exporter products, and provided evidence to support its claim.
3. Yonggang contested the Commission’s approach in calculating its domestic profit on the basis of the domestic sales of the goods that exported to Australia. Yonggang submitted that the Commission should rather take a broader approach by calculating a domestic profit on the basis of all goods under investigation, which Yonggang considers to be like goods, and to only omit like goods that are not sold in the ordinary course of trade.
4. Yonggang submitted that the Commission has made an error in adjusting for bank charges in constructing of normal values. Yonggang submitted that the Commission has double counted bank charges by making an adjustment for bank charges in normal value calculations. Yonggang claimed that its SG&A calculations already included bank charges incurred by the company and argued that there was a separate ledger account referred to as ‘bank charges’ within the SG&A workbook.
5. Yonggang submitted that the Commission has not properly addressed the significant fluctuation in steel billet prices when undertaking the ordinary course of trade test. Specifically, Yonggang submitted that the Commission should assess whether Yonggang’s domestic sales were sold in the ordinary course of trade by reference to Yonggang’s monthly costs, rather than quarterly costs. Yonggang submits that this would be consistent with the Commission’s current approach of comparing normal values and export prices on a monthly basis.
6. Yonggang submitted that the Commission has not explained why it has made a timing adjustment to address an assumed timing difference between domestic sales and export price. Yonggang provided evidence to prove that time of production and export sales of its products to Australia does not warrant a timing adjustment as both the production and sales of these products happen within the same month.
7. Yonggang also submitted that the Commission should remove the adjustment for credit costs in calculation of its normal values. Yonggang argued that it does not extend credit to its Australian customers. Yonggang

[28] See document number 51 on the public record.

submits that Yonggang's payment terms for its Australian customers are 100% payment by L/C at sight, as opposed to a dated L/C.

5.13.3.2 The Commission's consideration

1. The Commission acknowledges that Yonggang's profits were inadvertently accounted for twice in its normal value calculations for the SEF. The Commission corrected this error in Yonggang's dumping margin calculations.
2. Following Yonggang's submission in relation to its conversion costs, the Commission wrote to the representative of Yonggang and explained its concerns in relation to the difference between Yonggang's conversion costs for its domestic products versus the conversion cost rate in Yonggang's CTMS spreadsheets for its products sold to Australia. Following that, Yonggang provided the Commission with its detailed cost of production records for the lines that manufactured the products sold to Australia and lines that manufactured products that were sold in the domestic market. A careful examination of the production records revealed that conversion costs for the products sold to Australia incurred slightly less conversion costs. Therefore, in the light of the evidence provided by Yonggang, the Commission accepted Yonggang's explanation and calculated its conversion costs based on the conversion of HRB500 grade billets only.
3. The Commission notes that in its domestic market, Yonggang sells products that are of the same grade (500 MPa minimum yield strength) to the products it exports to Australia. The Commission assessed the sales of these 500 MPa products as being in the ordinary course of trade and in sufficient volumes as required by subsection 269TAC(14). The Commission highlights that in its previous submission on 19 January 2016, Yonggang strongly argued that its export sales of coiled rebar should be compared with the domestic products of the same grade stating that both its exported sales and domestically sold 500 MPa products are manufactured using identical HRB500 grade billets.[29] Having that in mind, in constructing normal values, the Commission, as explained in item 2 above, has taken the conversion costs being the conversion costs of HRB500 billets only. Consequently, the Commission considers it reasonable that the profit rate used in the construction of normal values of Yonggang's 500 MPa products should be the profit Yonggang achieved from sales of 500 MPa products in its domestic market.
4. A careful examination of Yonggang's records suggest that in calculation and allocation of SG&A to its domestic sales and Australian sales, Yonggang identified and deducted all the expenses that are directly related to its Australian sales and did not include these in its SG&A calculations. The Commission notes that in its SG&A calculation workbook, Yonggang identified the expenses directly related to its Australian sales and did not

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[29] See document number 44 on the public record.

include these in its domestic SG&A calculation. Therefore, the Commission does not consider a double counting of bank charges occurred.

5. The Commission notes that, regardless of the comparison base, the weighted average cost to make and sell in the investigation period does not change. It follows that the recoverability test will be based on the same figures irrespective of the comparison period. It is the Commission's policy to consider sales that are recoverable as made in the ordinary course of trade. Hence, the basis of assessment, whether it is monthly or quarterly, does not change the outcome of the ordinary course of trade test. The Commission therefore considers that its method for the ordinary course of trade test is correct and accurate.
6. In its calculation of normal values, the Commission verified from the other exporters that it is common that the production month was the month before the export sales took place. As the Commission did not undertake an on-site verification of Yonggang's records and there was no information to suggest that Yonggang's production and sales times were any different to other exporters. However, the Commission assessed the evidence provided by Yonggang in relation to timing of production of the goods exported to Australia and is satisfied that an adjustment for the timing difference between production and sales is not needed. In Yonggang's dumping margin calculations, the export prices are compared to the normal values pertaining to the same month.
7. In calculating adjustments to normal value, the Commission examines the details of the transactions rather than accepting them at face value. Notwithstanding the agreed sales terms with the export customers, the Commission considers that it is evident that there is a period between the time of sale and the time Yonggang received payments. The periods between the time of sale and time of receipt of payment are identified by Yonggang in its exporter questionnaire response. Consequently, the Commission adjusted Yonggang's normal values with respect to the weighted average cost of capital for the duration between the shipment of goods and receipt of funds by Yonggang for its export sales.

<u>Export Prices</u>

Export prices for exports of rebar to Australia by Yonggang were determined under subsection 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation.

Yonggang's export prices are at **Confidential Appendix – Yonggang 1**.

<u>Normal Values</u>

Normal values were calculated pursuant to subsection 269TAC(2)(c) and based on constructed costs using benchmark steel billet prices plus SG&A on the assumption that the goods, instead of being exported, were sold domestically. A rate of profit has been added using data related to the production and arm's length sales of like goods in the ordinary course of trade.

Yonggang's monthly CTMS figures are at **Confidential Appendix – Yonggang 2**

Yonggang's domestic sales listing and ordinary course of trade test and normal value calculations are at **Confidential Appendix – Yonggang 3 and 4.**

Adjustments

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

Adjustment type	Description
Export inland transport and handling	**Add** weighted average actual export inland transport and handling costs
Export bank charges	**Add** weighted average export bank charges
Export cost of capital	**Add** weighted average cost of capital for export sales
ACRS accreditation costs	**Add** verified exporters' average cost of ACRS accreditation
Non-refundable value-added tax (VAT)	**Add** the amount of non-refundable portion of VAT on exports

Table 4: Adjustment to normal value to ensure comparability to export price

Weight Basis

The Commission observed that Yonggang sells on either actual or theoretical weight bases, both in its domestic and export markets. If the sale is made on a theoretical weight basis, in each case, Yonggang provided a target rolling tolerance depending on the relevant standard's allowable weight tolerance limits. By using these target weight tolerances, the Commission converted all weights to actual and calculated domestic and export sales prices based on actual weights in calculating dumping margins.

In response to PAD 300, Yonggang submitted that all adjustments and the final unit normal values have been calculated and applied on the basis of actual net weight. Yonggang contends that the weighting of the unit CTMS was on the basis of gross theoretical weight.

The Commission considered Yonggang's submission. The Commission notes that, prior to publication of the PAD, the Commission identified discrepancies between the reported finished product weights and steel billet weights consumed in product of the corresponding products. Yonggang was asked a number of supplementary questions in relation to the figures in its exporter questionnaire response with one of the questions being the production figures being higher than some of the steel billet quantities used in production. On 25 November 2015, Yonggang responded to the questions and explained that it is Yonggang's normal business practice to record the production quantity of rebar on a theoretical weight basis, while the input of the billet is recorded on an actual weight basis. Based on this response, the Commission used Yonggang's actual steel billet weights for the purposes of calculating Yonggang's unit CTMS figures.

Dumping Margin

The Commission compared the monthly weighted average of export prices over the whole of the investigation period with the monthly weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Yonggang for the investigation period is **11.7 per cent**.

Yonggang's dumping margin calculations are at **Confidential Appendix – Yonggang 5**.

5.13.4 Hunan Valin Xiangtan Iron & Steel Co. Ltd.

5.13.4.1 Submissions received in respect of Hunan Valin's dumping margin calculations in the SEF

Hunan Valin provided a submission in response to the Commission's dumping margin calculations in the SEF. In this submission, Hunan Valin noted that the profit rate applied by the Commission to Hunan Valin differed between the PAD and the SEF.[30] Hunan Valin submitted that publicly available information regarding the profitability of Shandong Iron and Steel indicates a significantly lower profit rate than that applied by the Commission. Hunan Valin requests that the Commission confirm the accuracy of the profit rate applied to Hunan Valin in the SEF.

5.13.4.2 The Commission's consideration:

The Commission confirms that the weighted average rate of profit realised by the Chinese exporters from the sale of like goods in the ordinary course of trade transactions in their domestic markets has changed between the PAD and the SEF. This reflects new information the Commission acquired between the PAD and the SEF. The Commission iterates that the profit rate used in normal value calculations is the average profit rate realised by the cooperating exporters from the sales of like goods in ordinary course of trade transactions. The profit rate Hunan Valin refers to in its submission is the profit rate in the consolidated financial statements of Shandong Iron and Steel Company Limited, the parent company of Laiwu. This consolidated profit rate is not relevant and does not constitute a meaningful base for comparison.

Export Prices

Export prices for exports of rebar to Australia by Hunan Valin were determined under subsection 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation.

[30] See document number 60 on the public record.

Hunan Valin's export prices are at **Confidential Appendix – Hunan Valin 1**.

Normal Values

Based on the considerations above, Hunan Valin's normal values were calculated pursuant to subsection 269TAC(2)(c) and based on constructed costs using benchmark steel billet prices plus SG&A on the assumption that the goods, instead of being exported, were sold domestically. As it was not possible to reliably calculate Hunan Valin's conversion costs from billet to finished product (rebar), as per subsection 43(8) of the Regulations, Hunan Valin's conversion cost was replaced by the weighted average conversion cost of the cooperating exporters. A rate of profit has been added using data related to the arm's length sales of like goods in the ordinary course of trade as per subsection 45(3)(b) of the Regulations.[31]

Hunan Valin's CTMS data are at **Confidential Appendix – Hunan Valin 2**.

Hunan Valin's domestic sales and OCOT profit calculations are at **Confidential Appendix – Hunan Valin 3.**

Hunan Valin's normal value and dumping margin calculations are at **Confidential Appendix – Hunan Valin 4**.

Adjustments

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

Adjustment type	Description
Export inland handling and other charges	**Add** weighted average actual export inland transport and handling costs
Non-refundable value-added tax (VAT)	**Add** the amount of non-refundable portion of VAT on exports

Table 5: Adjustment to normal value to ensure comparability to export price

Weight Basis

Hunan Valin reported both its domestic and export sales on actual weight basis. Therefore, a conversion to actual weights was not required.

[31] The profit rates from other exporters are calculated based on the exporters' CTMS figures without the substitution of steel billet costs with selected benchmark.

Dumping Margin

The Commission compared the monthly weighted average of export prices over the whole of the investigation period with the monthly weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Hunan Valin for the investigation period is **15.2 per cent**.

Hunan Valin's normal value and dumping margin calculations are at **Confidential Appendix – Hunan Valin 4**.

5.13.5 Uncooperative and all other dumping margins

The Commission is treating all exporters of rebar from China in the investigation period other than Shiheng, Laiwu, Yonggang and Hunan Valin 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. Subsection 269TACAB(1)(d) specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3). Subsection 269TACAB(1)(e) specifies that normal values are to be calculated under subsection 269TAC(6).

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 of those that were established for the cooperating exporters in the investigation period.

The dumping margin for uncooperative exporters from China is **30.0 per cent**.

These calculations are at **Confidential Appendix - Uncooperative.**

5.14 Volume of dumped imports

Pursuant to subsection 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as less than 3 per cent of the total volume of goods imported into Australia over the investigation period if subsection 269TDA(5) does not apply.

Using the ABF's import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total imported volume of the goods, the volume of allegedly dumped goods from China was greater than three per cent of the total import volume and is therefore not negligible.

5.15 The Commission's assessment

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

- Shiheng;
- Laiwu;
- Yonggang; and
- Hunan Valin

were at dumped prices during the investigation period. The Commissioner has also found that the volume of dumped goods was not negligible during the investigation period.

The Commission has also assessed that the dumping margin for uncooperative exporters from China is 30.0 per cent.

A summary of the Commission's assessment of dumping margins is set out in Table 6.

EXPORTER / MANUFACTURER	DUMPING MARGIN
Shandong Shiheng Special Steel Group	15.3%
Shandong Iron and Steel Company Limited, Laiwu Company	16.4%
Jiangsu Yonggang Group Co. Ltd.	11.7%
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	15.2%
Uncooperative and All Other Exporters	30.0%

Table 6: Dumping margins

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Commencement of injury

OneSteel claimed in its application that material injury from the allegedly dumped rebar exports from China commenced in October 2014. At the Australian industry verification visit, OneSteel submitted that importation patterns began to change in late 2014 in line with the first Chinese exporter obtaining ACRS certification.

At the initiation of this investigation, the injury assessment period was set to start from July 2011. However, the Commission considers that although the injury assessment period is set from July 2011, it is important to analyse the data by keeping in mind that OneSteel claimed that the injury from rebar imports from China commenced in October 2014. Therefore, the Commission focused mostly on data relating to the investigation period for the purposes of injury assessment and used the data relating to prior periods for contextual purposes.

The Commission further notes that in Investigation No. 264, OneSteel was found to be injured by dumped exports of rebar from Korea, Singapore, Spain and Taiwan (with the exception of one exporter).[32] As a result, the Commission is of the view that, as established by Investigation No. 264, the data pertaining to 1 July 2013 to 30 June 2014 (the period directly prior to the investigation period) represents a market that has been affected by dumping. [33] Therefore, the data prior to the investigation period is not suitable for injury assessment purposes. For this reason, the Commission focused its analysis on October 2014 to June 2015 period for the purposes of injury and causation assessments.

6.2 Price effects

The Commission's analysis of price effects was conducted using verified sales data. The Commission did not include OneSteel's export sales, sales of rebar imported by OneSteel or sales of rebar imported from other countries.

The volume of import sales included in the price effects analysis represents an estimated 90 per cent of the import volume of rebar from China included in the ABF's import database. The Commission considers that, as this sales data represents a significant proportion of total imports for 2014/15, it allows a reasonably representative and accurate assessment of price effects on the Australian industry.

6.2.1 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

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32 Investigation Report 264 refers. This report is available on the public record at www.adcommission.gov.au.

33 1 July 2014 to 30 June 2015

In determining whether price suppression has occurred the Commission may conduct[34]:

- a comparison of prices with costs to assess whether over time (e.g. the injury analysis period) or within a specified period (e.g. the investigation period), prices have not increased at the same rate as cost increases; or
- an assessment as to whether the prices for the Australian industry's product are lower than prices that may have been achieved in the absence of dumping.

Figure 3 demonstrates movements in OneSteel's combined domestic weighted average unit costs and prices for rebar straights and coils during the injury analysis period.

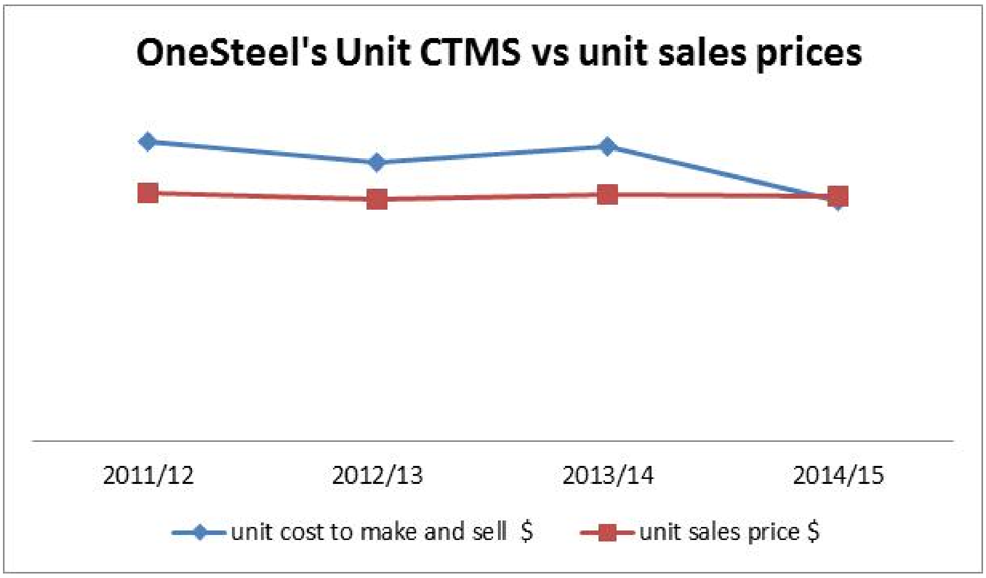

Figure 3 – OneSteel's Unit sales prices v Unit CTMS

Figure 3 indicates that OneSteel's unit costs exceeded its unit prices from the 2011/12 financial year to the third quarter of 2014/15 financial year.

[34] Anti-Dumping Commission, *Dumping and Subsidy Manual* (November 2015), page 16

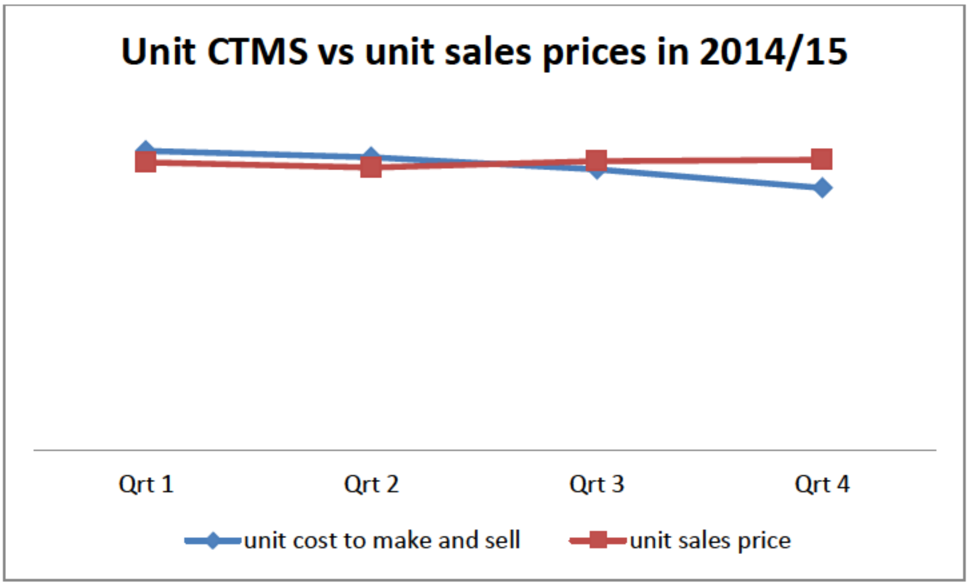

Figure 4 – OneSteel's unit CTMS vs unit domestic sale prices in 2014/15

Figure 4 indicates that OneSteel's unit sales prices were greater than its fully absorbed CTMS figures towards the end of quarter 2 in 2014/15 and remained above its CTMS figures till the end of this period.

The Commission notes that OneSteel's profit and profitability improved from the second quarter of the 2014/15 financial year. OneSteel has indicated to the Commission that the improvement in its unit profits and profitability was due to two main reasons:

1. decreases in its costs as a result of falling input material prices, mainly iron ore and scrap steel, and cost cutting and efficiency programs; and
2. reduction in import volumes of rebar from countries nominated in Investigation No. 264.

The Commission has verified OneSteel's cost to make and sell rebar and has found that OneSteel has achieved decreases in costs. The Commission has also examined imports of rebar using the ABF's import database and has found that there has been a reduction in import volumes of rebar from countries nominated in Investigation No. 264.

During the Australian industry verification visit to OneSteel, the Commission verified that OneSteel's pricing decisions are heavily influenced with the import offers in the market. The Commission has analysed OneSteel's prices by comparing them with prices of rebar imported from China. This analysis indicates that Australian industry's prices were undercut and that it would have achieved higher prices in the absence of sales of rebar exported from China at dumped prices. This analysis is discussed further in section 7 of this report.

The Commission considers that the Australian industry has suffered injury in the form of price suppression.

The assessment of the Australian industry's claims of price suppression is contained in **Confidential Appendix - Price Injury.**

6.2.2 Price effects – the Commission's conclusion

The Commissioner considers that the Australian industry's prices were undercut and that it could have achieved higher prices in the absence of dumping from China. The Commissioner considers that the Australian industry has suffered injury in the form of price suppression.

6.3 Volume effects

6.3.1 Sales volumes

In its application, OneSteel submitted that it has suffered material injury in the form of lost sales volumes of rebar due to increased volumes of imports at dumped prices from China.

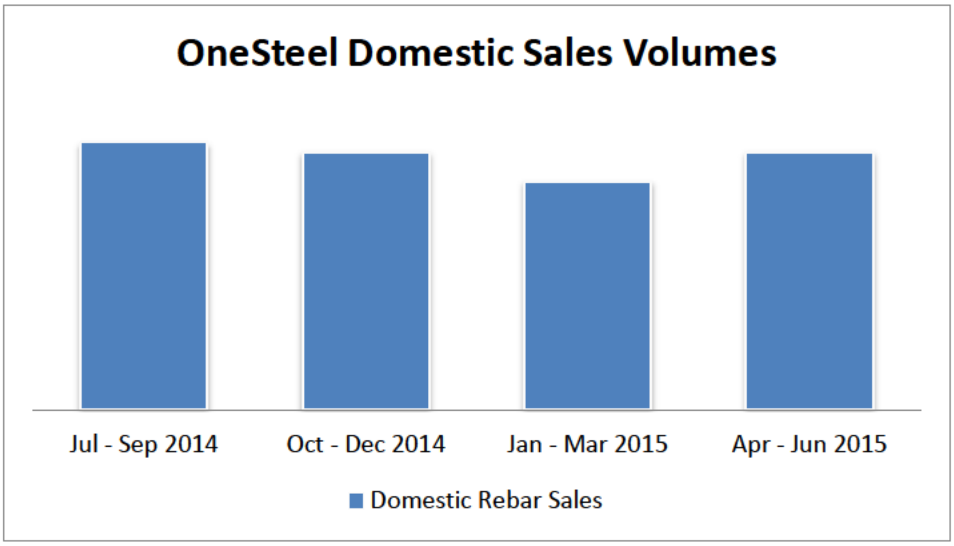

Figure 5 – OneSteel's domestic rebar sales volumes during the investigation period

Figure 5 shows that OneSteel's domestic sales volume of rebar decreased from July 2014 to March 2015 and increased in April – June 2015 quarter.

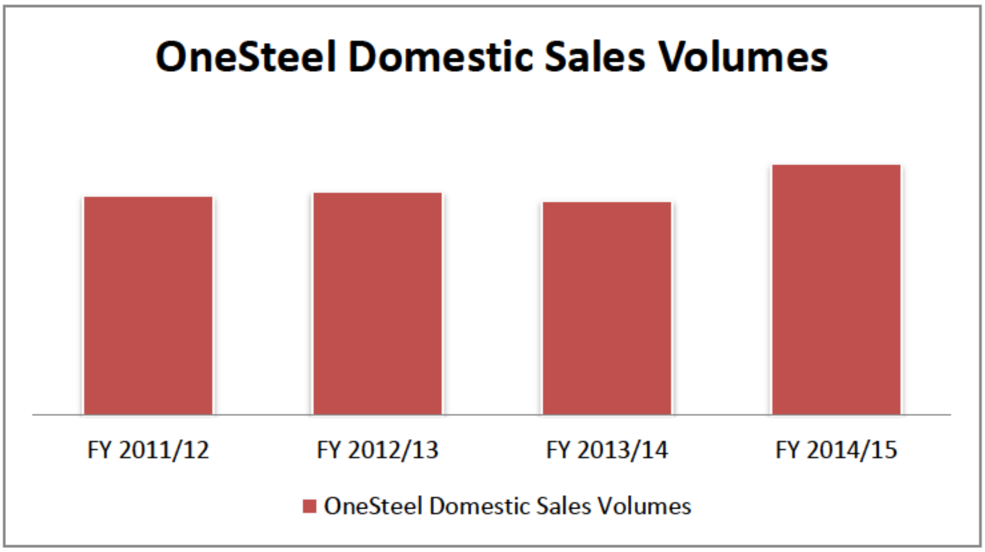

Figure 6 – OneSteel's domestic rebar sales volumes during the injury assessment period

Figure 6 indicates that OneSteel marginally increased its sales volumes from FY2011/12 to FY2012/13. There was a slight decrease in OneSteel's volumes in FY2013/14 in comparison to FY2012/13. The Commission has found that OneSteel increased its domestic rebar sales volumes in FY2014/15. At the verification visit, OneSteel claimed that the increase was due to the effect of Investigation No. 264 in the market and asserted that it could not fully benefit from the drop of import volumes from the countries that are subject to Investigation No. 264 as Chinese exporters quickly obtained ACRS accreditations and increased their sales volumes rapidly to fulfil the gap created in the market.

OneSteel claimed that material injury from Chinese rebar imports commenced in October 2014. Figure 7 depicts import volumes of rebar from China taken from ABF's import database. The Commission considers that the data from ABF's import database indicates there has been a significant increase in volumes of rebar exported from China.

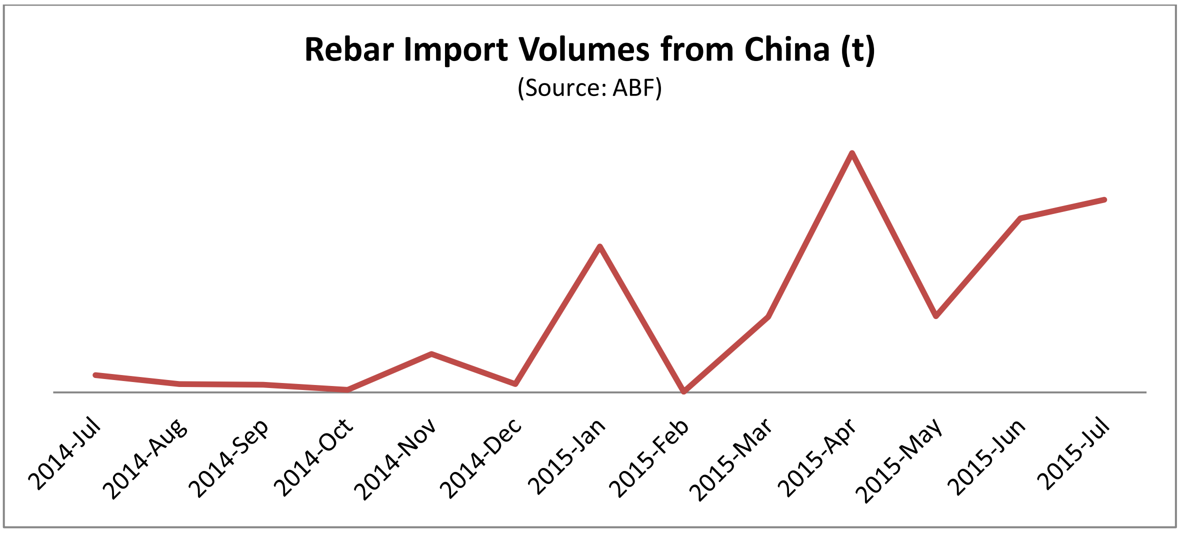

Figure 7 – Volumes of rebar imported from China

The Commission notes that, at the time when OneSteel claims that the material injury commenced from imports of rebar from China, Investigation No. 264 had been initiated but had not yet concluded. Therefore, it is essential to isolate any injury affects caused by imports of rebar from countries that are subject to investigation No. 264. The chart below shows the total volume of rebar imports from these countries.

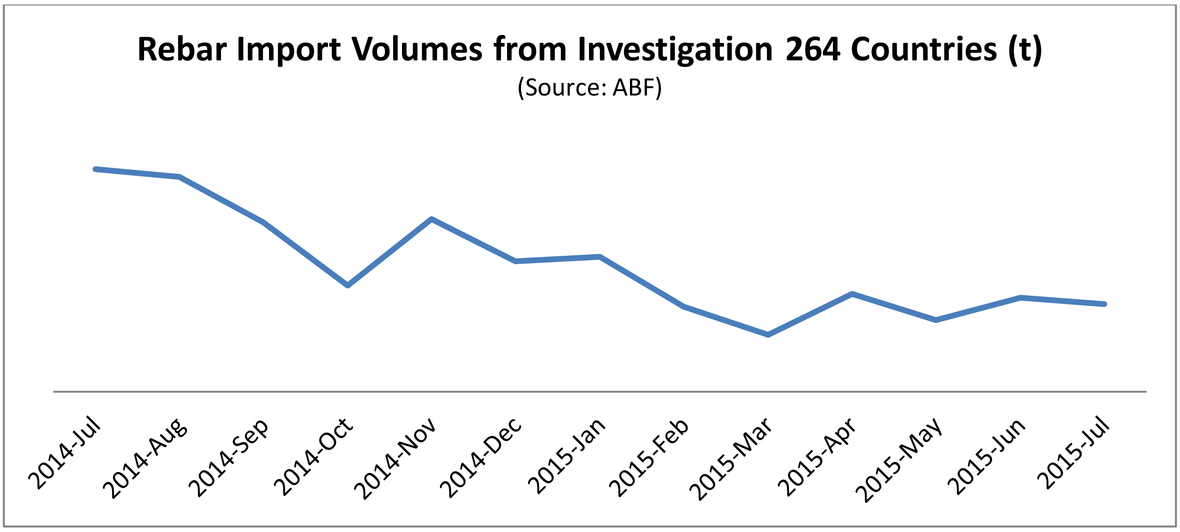

Figure 8 - Total imports of rebar from countries that are subject to Investigation No. 264

Figure 8 indicates that there has been significant decrease in volumes of rebar imported from countries subject to Investigation 264. Therefore, Figures 7 and 8 indicate that increased sales of rebar exported from China to Australia have replaced sales of rebar exported from countries subject to Investigation No. 264.

6.3.2 Market share

Figure 9 illustrates the movements in market share for rebar by financial year over the injury analysis period. This chart is based on the Commission's assessment of OneSteel's domestic sales data and data obtained from the ABF's import database.

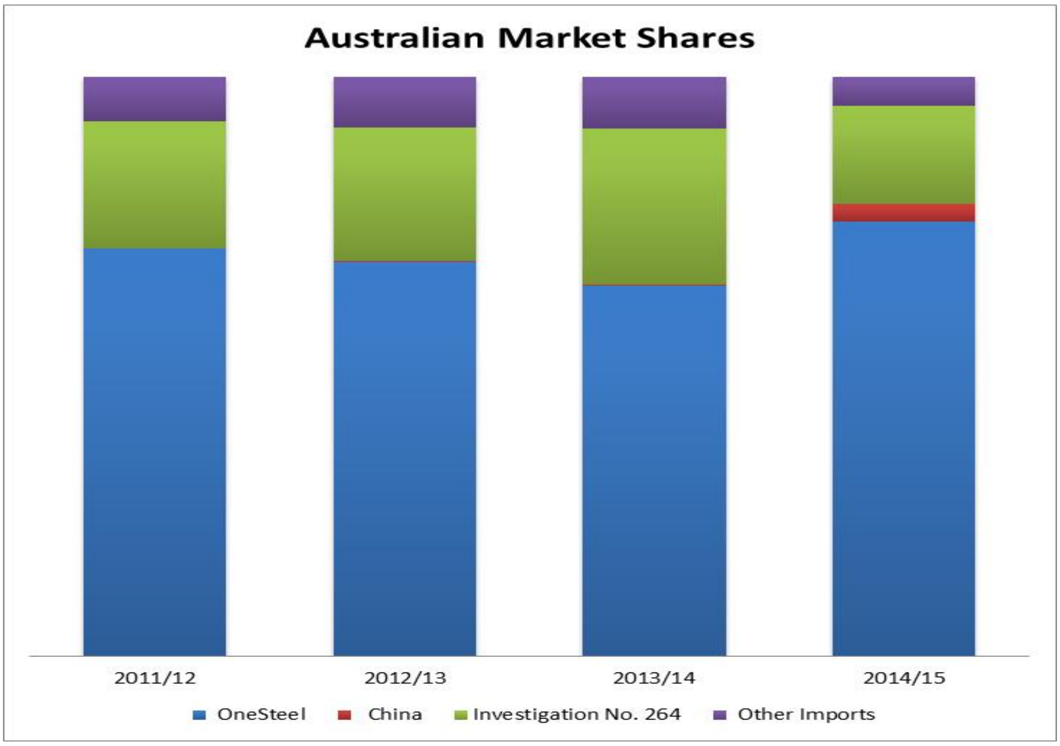

Figure 9 – Proportional market share (%)

Figure 9 indicates that:

- OneSteel's market share for rebar declined in 2012/13 and 2013/14. The decline in 2013/14 was greater than the decline in 2012/13. Following the initiation of Investigation No. 264, OneSteel's market share recovered in 2014/15;
- Prior to 2014/15, rebar exported from China did not have a significant market share in Australia;
- Imports from the countries under investigation by Investigation No. 264 declined significantly in 2014/15; and
- Prior to the investigation period, the market share of rebar imported from other countries that are not subject to a dumping investigation was steady. However, market share of imports from other countries reduced by 4 percentage points during 2014/15.

The Commission has found that OneSteel gained market share during 2014/15 which coincides with the investigation period. The Commission further notes that OneSteel's total rebar sales volumes also increased following the initiation of Investigation No. 264.

6.3.3 Volume effects – the Commissioner's conclusion

The Commissioner considers that dumping of goods have allowed sales of rebar exported from China to undercut OneSteel's prices. The Commissioner considers that the price sensitivity of the Australian rebar market and the ability of rebar purchasers to quickly and easily switch sources of supply, has resulted in injury to the Australian industry in the form of lost sales volumes in the Australian market.

The Commissioner considers that undercutting of OneSteel's prices by rebar exported from China at dumped prices prevented OneSteel from gaining greater market share during the period if not for this price undercutting.

The data and analysis relating to the assessment of the Australian industry's volume injury claims are included in **Confidential Appendix – Volume Injury** and **Confidential Appendix – Australian Market**.

6.4 Profit effects

In its application, OneSteel claimed that it was sufferring injury in the form of reduced profit and profitability. Figure 10 indicates that OneSteel's profit and profitability for rebar increased during the investigation period.

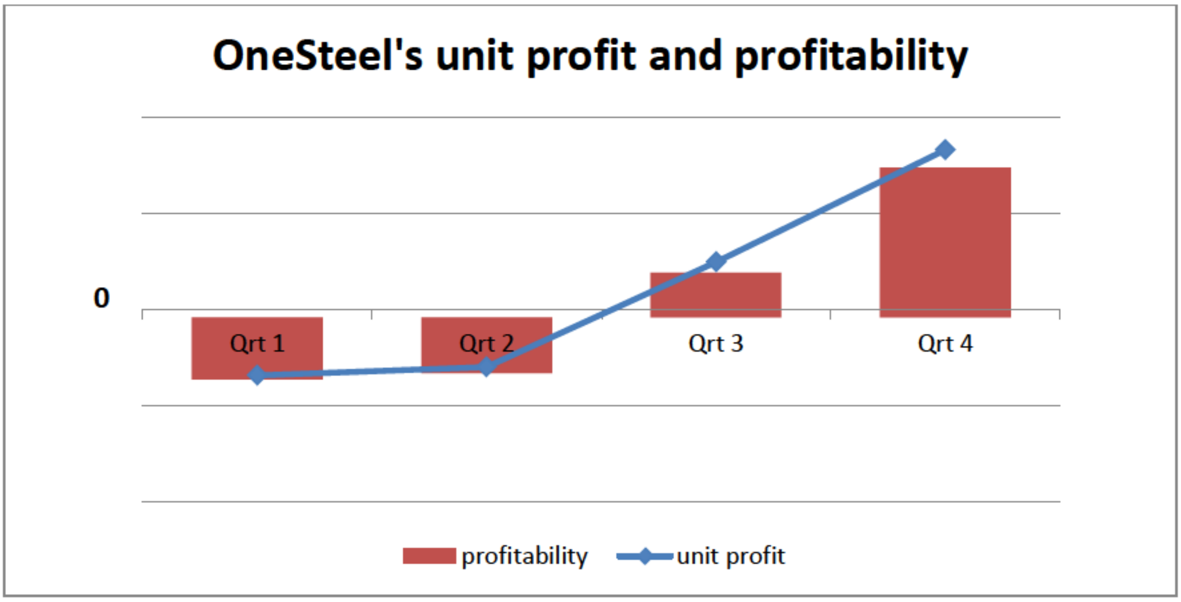

Figure 10 – OneSteel profit and unit profitability

The Commissioner considers that OneSteel would have been able to increase its sales volumes and could have achieved better prices in a market not affected by rebar exported from China at dumped prices. Such increases would have ultimately reflected positively on OneSteel's profits and profitability over the investigation period.

The Commissioner considers that OneSteel has suffered injury in the form of profit effects.

6.5 Other relevant economic factors

In its application, OneSteel claimed that it has experienced injury in respect of the following other economic factors:

- 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.

The other relevant economic factors analysed below relate to the production of like goods and are based on verified data provided by OneSteel on a 1 July to 30 June yearly basis. Details of other relevant economic factors are at **Confidential Appendix 7**.

6.5.1 Capacity utilisation

Figure 11 indicates that OneSteel's capacity utilisation related to the production of rebar increased in 2014/15 and has increased since 2011/12.

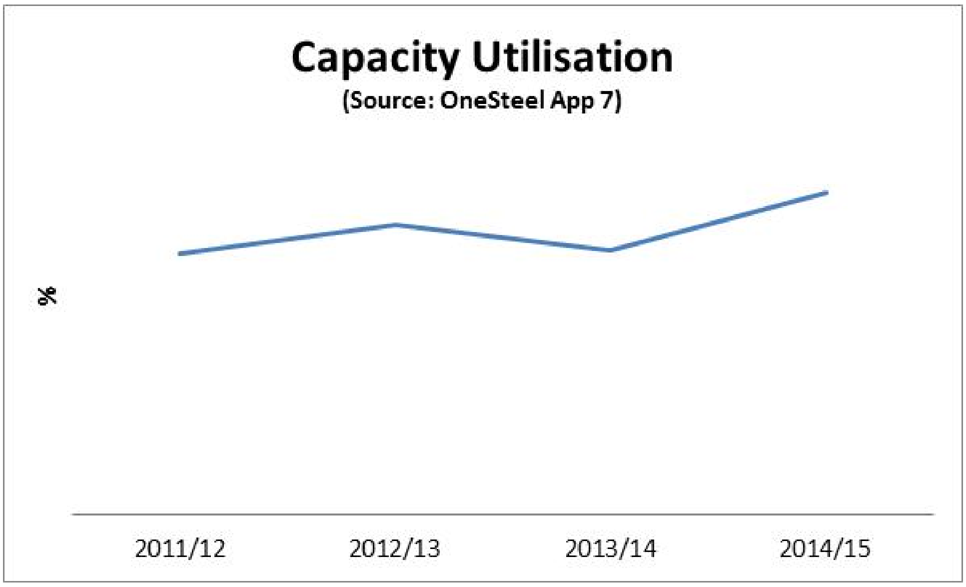

Figure 11 – OneSteel Capacity Utilisation

6.5.2 Employment

Figure 12 indicates that OneSteel's employment related to the production of rebar at OneSteel maintained a pattern of decline in 2014/15.

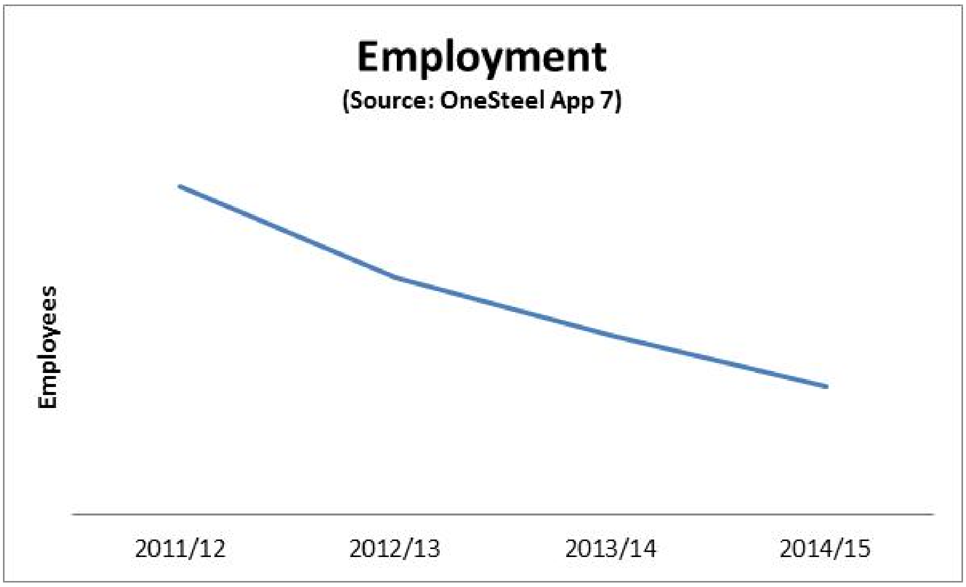

Figure 12 – OneSteel Employment

6.5.3 Assets

Figure 13 indicates that the value of OneSteel's assets employed in the production of rebar maintained a pattern of decline in 2014/15.

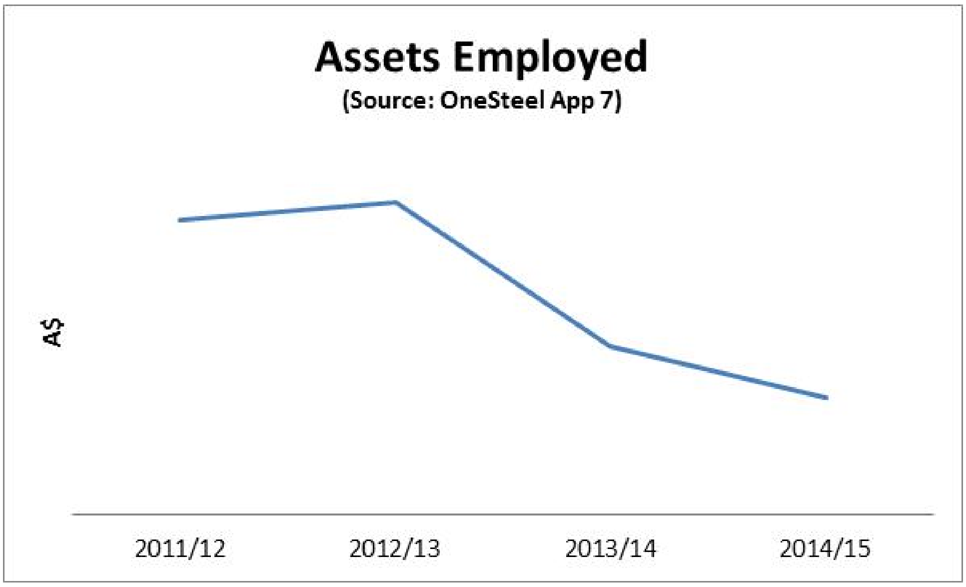

Figure 13 – OneSteel Assets Employed

6.5.4 Capital investment

Figure 14 indicates that the value of OneSteel's capital investment related to the production of rebar has declined in 2014/15 but has increased overall since 2011/12.

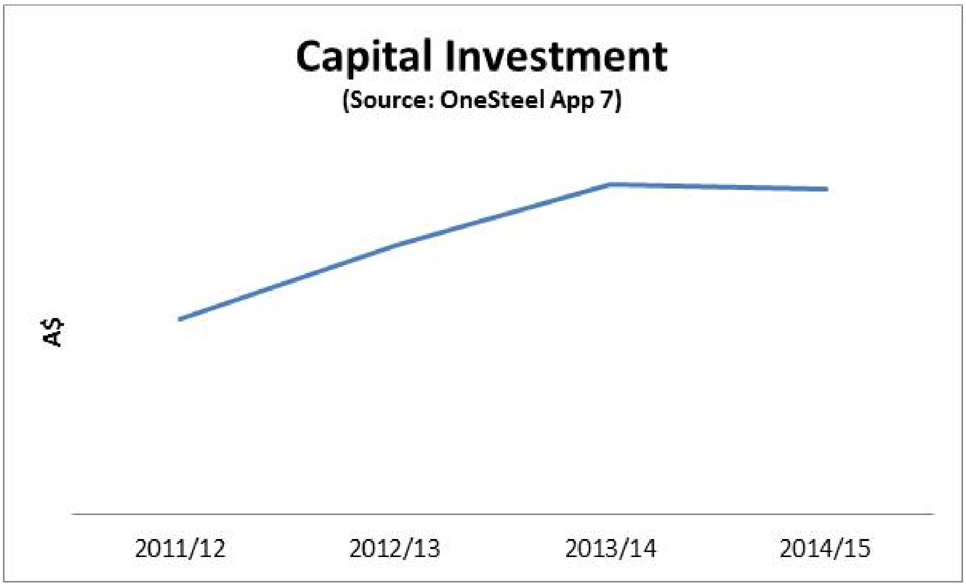

Figure 14 – OneSteel Capital Investment

6.5.5 Other relevant economic factors - conclusion

Based on the analysis outlined above, the Commission has found that the Australian industry has experienced injury in the form of reduced:

- employment;
- value of assets;
- value of capital investment

related to the production of rebar.

6.6 The Commissioner's assessment

The Commissioner has found that OneSteel has experienced injury in the form of:

- loss of sales volumes;
- less than achievable market share
- price suppression;
- less than achievable profits and profitability;
- reduced employment;
- reduced value of assets employed in the production of rebar; and
- reduced value of capital investment in the production of rebar.

The Commissioner considers that the number of factors in which the industry has suffered injury, when considered together, is not immaterial, insubstantial or insignificant and, as such, is material in degree and greater than that likely to occur in the normal ebb and flow of business.

6.7 Submissions received in response to the SEF in respect of injury

The Commission received one submission in response to the SEF in respect of injury.

Yonggang has submitted that the Australian industry suffered no actual injury in the investigation period. Yonggang also submitted that the material injury assessment in the SEF is not based on facts or positive evidence. [35]

6.7.1 The Commission's consideration

The submission refers to the Commission's conclusions on injury and how they were arrived at in its use of a 'but for' method in the analysis of the link between dumping and injury. The matters raised in Yonggang's submission are addressed in section 7 of this report.

[35] See document number 53 on the public record.

7 HAS DUMPING CAUSED MATERIAL INJURY?

7.1 Introduction

The Commissioner has found that during the period of investigation, exports of rebar from China were dumped and that this has resulted in the Australian industry suffering material injury.

7.2 The Commissioner's assessment

The Commission has found that:

- sales of rebar (in straight lengths or coils) exported to Australia from China at dumped prices undercut OneSteel's prices;
- the price of rebar exported from China would not have undercut OneSteel's prices if that rebar was not dumped;
- from the commencement of injury in November 2014 until the end of the investigation period, dumping duty exclusive actual sales prices of rebar imports from China either undercut, or were equivalent to, the lowest priced imports from countries subject to Investigation 264;
- but for sales of rebar exported from China at dumped prices, the weighted average delivered prices from Investigation 264 countries would not have declined as much;
- undercutting of OneSteel's prices by rebar exported from China at dumped prices prevented OneSteel from gaining greater sales volumes and market share during the period if not for this price undercutting;
- OneSteel would have been able to increase its sales volumes and could have achieved better prices in a market not affected by rebar exported from China at dumped prices. Such increases would have ultimately reflected positively on OneSteel's profits and profitability over the investigation period; and
- the link between rebar exported from China at dumped prices and injury suffered by OneSteel in the form of price, profit and volume effects has had a negative impact on OneSteel's decisions in respect of other economic factors.

The Commissioner has assessed that during the investigation period, exports of rebar from China were dumped and have caused the Australian industry to suffer material injury in the form of:

- loss of sales volumes;
- less than achievable market share
- price suppression;
- less than achievable profits and profitability;
- reduced employment;

- reduced value of assets employed in the production of rebar; and
- reduced value of capital investment in the production of rebar.

7.3 Legislative framework

Under subsections 269TG(1) and (2), one of the matters 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.

Subsection 269TAE(1) outlines the factors that the Parliamentary Secretary may take into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened.

7.4 Approach to causation analysis

As noted in Chapter 6, the Commissioner considers that the Australian industry prices were undercut and that it could have achieved higher prices in the absence of dumping from China. As a result, the Commissioner considers the Australian industry has suffered injury in the form of price suppression, lost sales volumes, and reduced profitability.

However, the Commissioner notes that:

- in terms of price effects and profitability, OneSteel's profit and profitability actually improved from the second quarter of the 2014/2015. OneSteel's unit sales prices surpassed its fully absorbed CTMS figures towards the end of quarter 2 in 2014/2015 and remained above CTMS figures until the end of this period; and
- in terms of volumes, actual sales volumes marginally increased its domestic rebar sales volumes in FY2014/2015.

Despite these improvements in profitability and volume, the Commissioner is able to consider whether injury has been caused by dumped imports using the 'but for' analytical method.[36] Under a 'but for' analytical method it may be possible to compare the current state of the industry to the state the industry would likely have been in had there been no dumping.

The Commission has conducted a 'but for' analysis to determine what the economic condition of the industry would have been if rebar exported from China was not at dumped prices.[37]

In its conduct of this analysis, the Commission has noted its finding that purchasing decisions in the Australian rebar market are predominantly based on price and buyers can easily shift their purchases to suppliers that offer lower prices.

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[36] Anti-Dumping Commission, *Dumping and Subsidy Manual* (November 2015), pp 121-124

[37] For example, in terms of volumes or prices that would have been achieved

The Commission analysed the following factors in assessing the causal link between the dumped imports from China and the price injury of the Australian industry:

- size of the dumping margins;
- price undercutting;
- the impact of increased prices on volumes; and
- price suppression.

The Commission has also considered other possible causes of injury.

7.5 Size of the dumping margins

The Commissioner has found that rebar exported from China was dumped at dumping margins ranging between from 11.7 per cent and to 30 per cent and are above negligible levels (two per cent). Dumping has enabled importers of rebar to have a competitive advantage over the Australian industry by being able to offer rebar at lower prices than would otherwise have been the case and has caused OneSteel to lower its prices.

7.6 Price undercutting

Price undercutting occurs when imported goods are sold at a price below that of the Australian produced like goods. The Commission has conducted an analysis of price undercutting based on verified sales and pricing data sourced from two cooperating importers and OneSteel.

The Commission compared the weighted average selling prices of dumped goods imported by the two cooperating importers (referred to in the charts below as 1 and 2 respectively) with OneSteel's weighted average prices for rebar coils and rebar straights separately over the investigation period. The two cooperating importers collectively account for approximately 87 per cent of all rebar imports from China. The comparison was done on a free into store basis.

7.6.1 The level of price undercutting

The charts below depict the magnitude (the amount of the undercutting in dollars per unit) and percentage of the price undercutting.

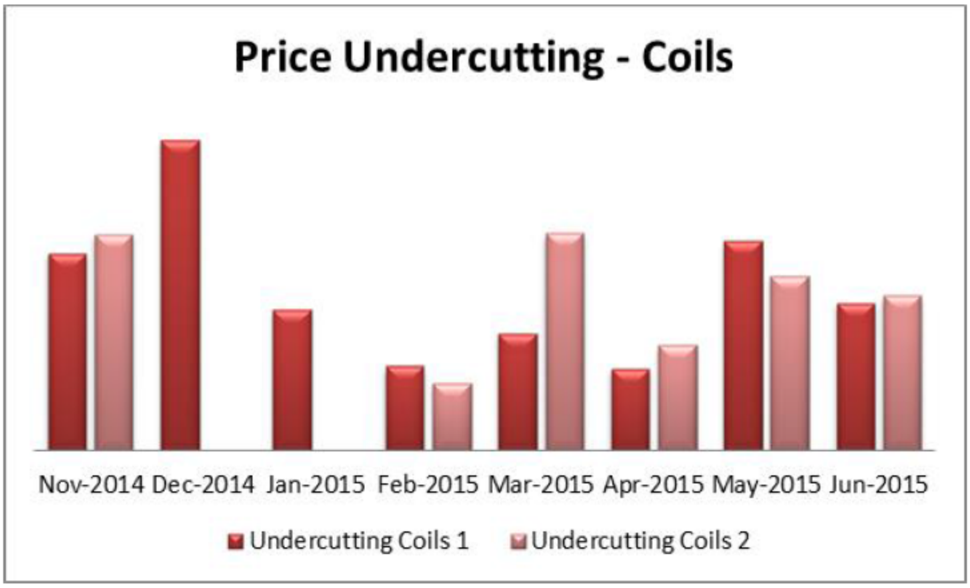

Figure 15 – Magnitude of price undercutting in coils

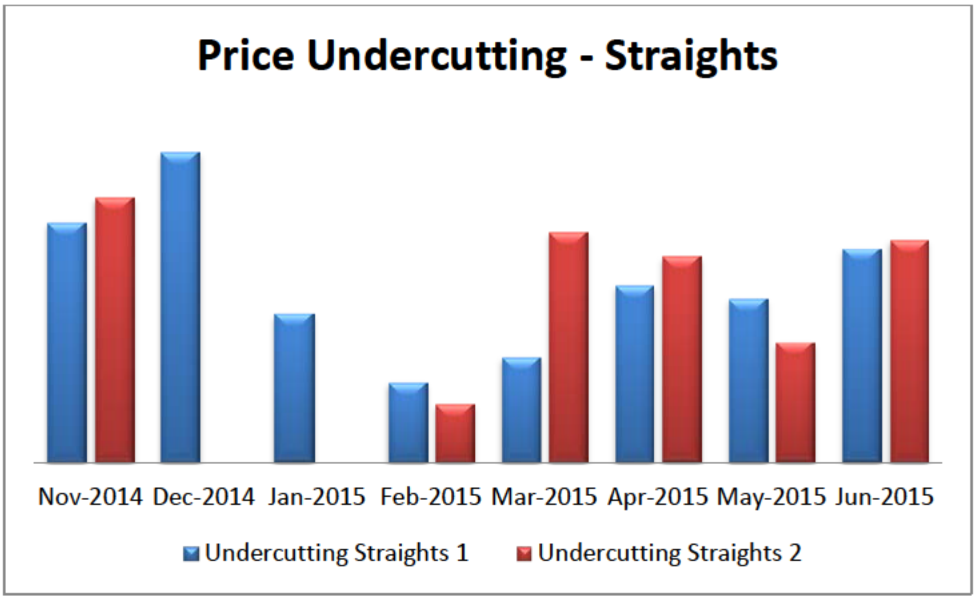

Figure 16 – Magnitude of price undercutting in straights

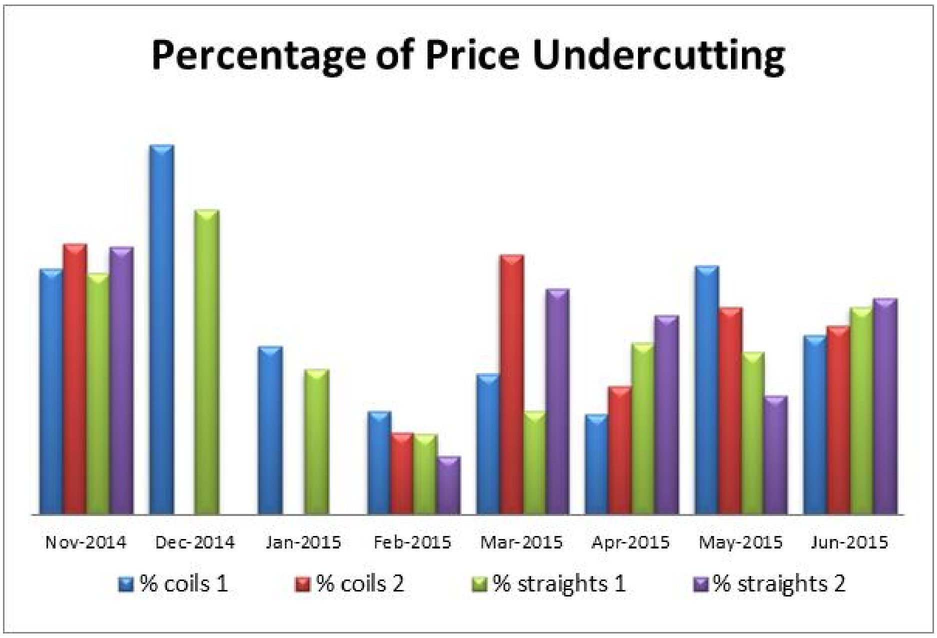

Figure 17 – Percentage of price undercutting in straights and coils

This analysis indicates sales of rebar (in straight lengths or coils) exported to Australia from China at dumped prices undercut OneSteel by 2.0 per cent to 12.9 per cent. During the investigation period, the two importers' weighted average prices were below those of OneSteel's in every month. In the graph above, Coil 1 stands for the percentage price undercutting of OneSteel's coil sales by the sales of Importer 1. Straights 1 stands for the percentage price undercutting of OneSteel's rebar straights sales by the sales of Importer 1.

7.6.2 Dumping and price undercutting

In order to analyse the impact of dumping, the Commission calculated the weighted average delivered duty paid prices from the two cooperating importers and compared these duty inclusive prices with OneSteel's verified selling prices of rebar straights and coils.

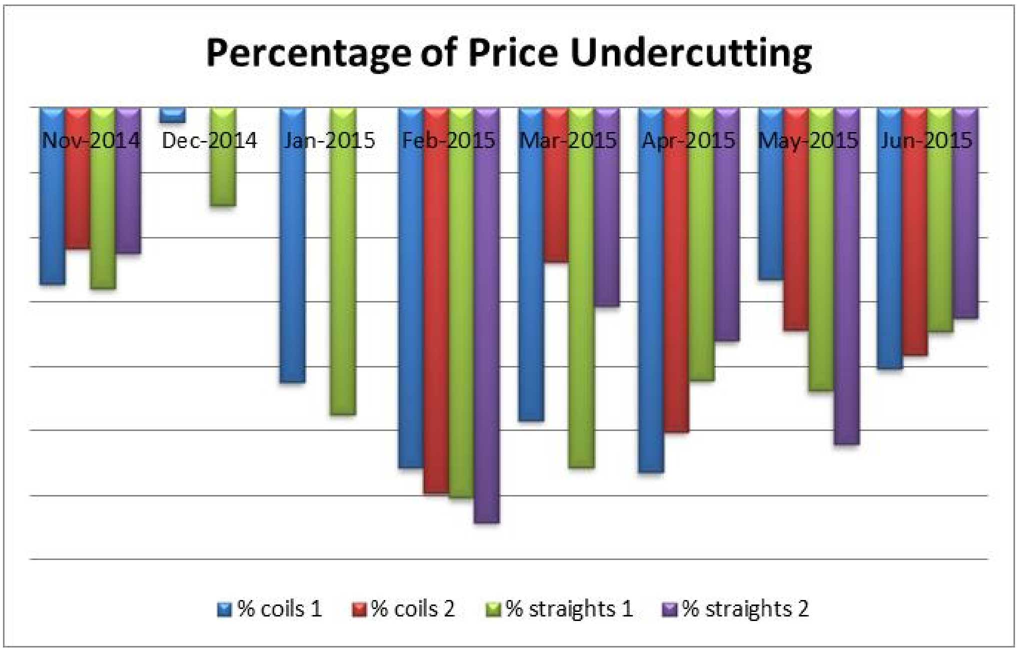

Figure 18 – Percentage of price undercutting using delivered duty inclusive prices

The Commission found that by adding the amount of dumping to the price of rebar exported to Australia from China, the price of rebar exported from China would not have undercut OneSteel's prices if that rebar was not dumped.

7.7 Price suppression

Price suppression occurs when price increases for the Australian industry's products, which otherwise would have been achieved, have been prevented to a significant degree.

At the Australian industry verification visit, OneSteel provided comprehensive evidence to the Commission of its price setting practices. This evidence indicates that it constantly monitors price offerings in the market and that a key determinant for its prices to external customers was the price of imports.

The Commission has found that rebar prices are typically negotiated monthly. Evidence provided by OneSteel indicates that its customers compared OneSteel's offers with free into store price offers for the imported products in the month that the imports are due to arrive at the customer's facility.

The Commission has also found that import offers and movements in the price of imported rebar are leveraged by customers to negotiate prices with OneSteel. In order to remain competitive, OneSteel must respond to the price of imported products by reducing its price offers.

As discussed in PAD 300, OneSteel's unit costs exceeded its unit prices for the first two quarters of 2014/15 and its unit prices were above unit costs for the last two quarters of the financial year.

The Commission considers that this recovery can be attributed to decreases in costs. However, without the presence of dumping from China, OneSteel's customers would not be able to refer to prices in the rebar market that are low due to dumping in their negotiations. The Commission considers that, in absence of dumping from China, OneSteel would be in a position to further improve its unit prices.

The Commission considers that, but for dumping, OneSteel would be in a position to obtain pricing at levels that are not suppressed and would improve its unit profitability.

7.7.1 Rebar prices in the absence of undercutting

In order to assess what prices the Australian industry was likely to achieve in the absence of dumped imports from China, the Commission had regard to the weighted average import duty and dumping duty inclusive delivered into store prices of rebar from China as well as the countries that were subject to Investigation 264.

The Commission notes that the countries that were subject to Investigation 264 are the most significant exporting countries of rebar to Australia and have been identified by OneSteel as being the major source of competition besides China. As these countries are already subject to anti-dumping measures, Investigation 264 countries can be considered to represent un-dumped sources of rebar in the Australian market.

The Parliamentary Secretary agreed to the recommendations in the final report of Investigation 264 and the recommended measures were imposed on 19 November 2015.

In this analysis, the Commission calculated the respective dumping duties and added them to the weighted average FOB prices of rebar exported from the countries subject to Investigation 264. The Commission then added the verified duties paid (including customs duties where applicable), overseas transportation, cost of importation, inland transport and the corresponding importers' SG&A and profit figures to the dumping duty inclusive weighted average FOB prices from the ABF's import database to calculate delivered into store prices of rebar from Investigation 264 countries. For ease of comparison, actual average verified monthly sales prices of Chinese imports are also included in these charts (see *CN no DM* columns). Verified average selling prices of OneSteel are also included in in Figure 20. These analyses are depicted as monthly price comparison charts in Figure 19 and Figure 20.

Figure 19 and Figure 20 indicate that from the commencement of the injury assessment period in November 2014 until the end of the investigation period, dumping duty exclusive actual sales prices of rebar imports from China either undercut, or were equivalent to, the lowest priced imports from Investigation 264 countries.

The Commission acknowledges that steel prices in general have been depressed globally within the investigation period.[38] However, in the same period the

[38] Platts' East Asian steel billet price index was down by around 31 per cent during the investigation period.

Australian dollar fell significantly against the US dollar[39] which, the Commission understands, is the reason why the Australian rebar market has not shown the same amount of weakening in prices.

The Commission has found the weighted average customs and dumping duty inclusive delivered prices from Investigation 264 countries declined by around 9 per cent between January and June 2015. Figure 20 indicates that that, during the investigation period, the weighted average duty inclusive delivered prices from Investigation 264 countries have never been below the dumped prices from China. The Commission considers that Investigation 264 countries' prices were depressed due to competition of dumped exports from China. The Commission considers that, but for sales of rebar exported from China at dumped prices, the weighted average delivered prices from Investigation 264 countries would not have declined as indicated in Figure 20.

Figure 20 indicates that OneSteel's prices did not decline in the investigation period. However, the Commission considers that the consistent undercutting by sales of rebar exported from China at dumped prices and the competition from sales of rebar from Investigation 264 countries have prevented OneSteel from achieving higher prices. Figure 20 also indicates that prices of rebar, if not dumped, would have been higher than those achieved by OneSteel over the investigation period.

Given the price sensitivity in the Australian rebar market, the Commission considers that OneSteel's rebar prices were affected by competition from exports from Investigation 264 countries, as well as competition from dumped exports from China. That is, dumped exports of rebar from China were a direct cause of price suppression suffered by OneSteel as well as an indirect cause due to the suppressing effect on the prices of rebar exported from Investigation 264 countries.

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 injury in the form of price suppression and that injury was caused by sales of rebar exported from China at dumped prices.

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[39] Australian dollar was worth 0.94 US dollars at July 2014 but declined to 0.77 US dollars at June 2015 (data from Reserve Bank of Australia average monthly figures).

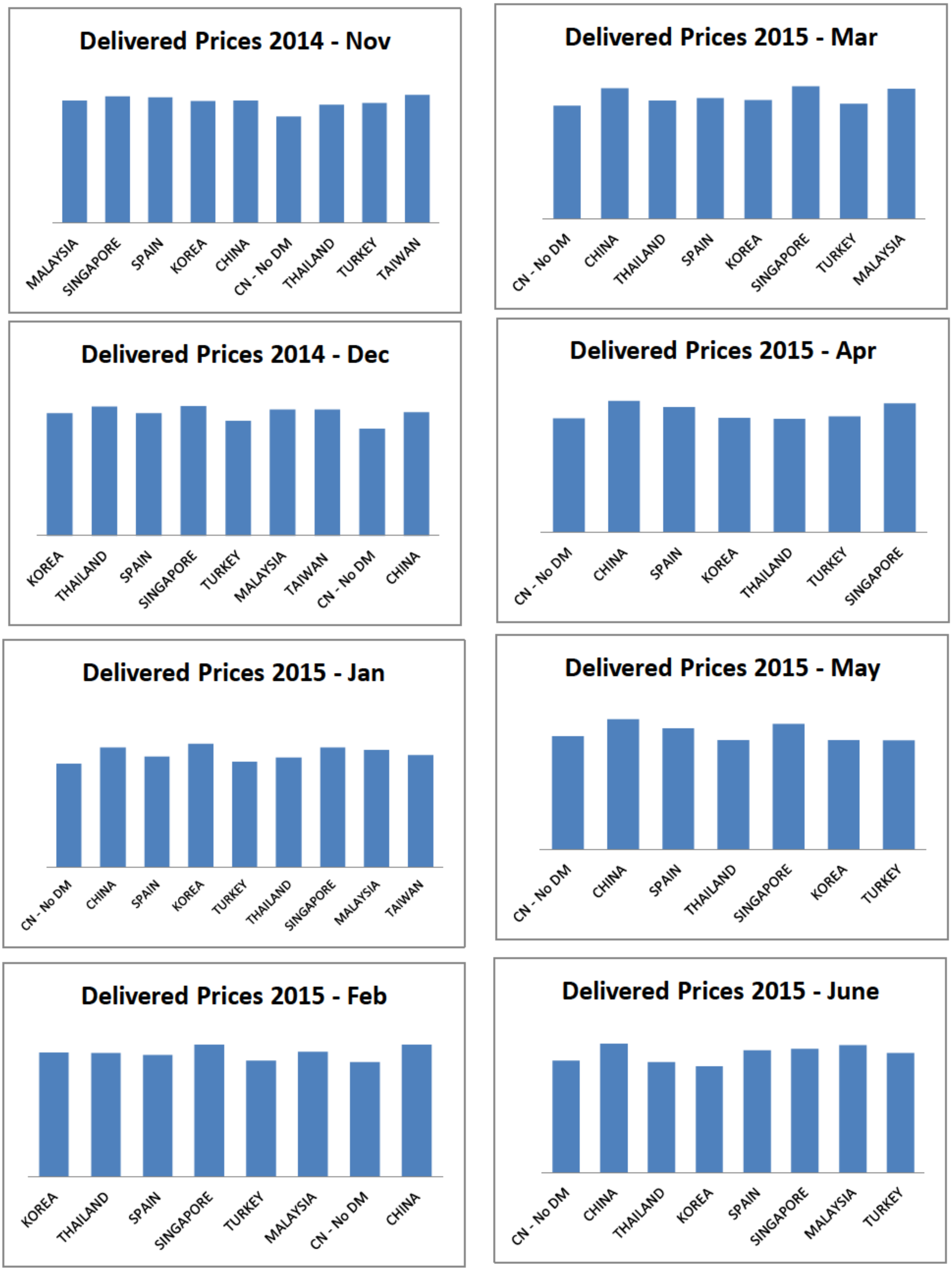

Figure 19 - Comparison of monthly duty inclusive free into store prices.

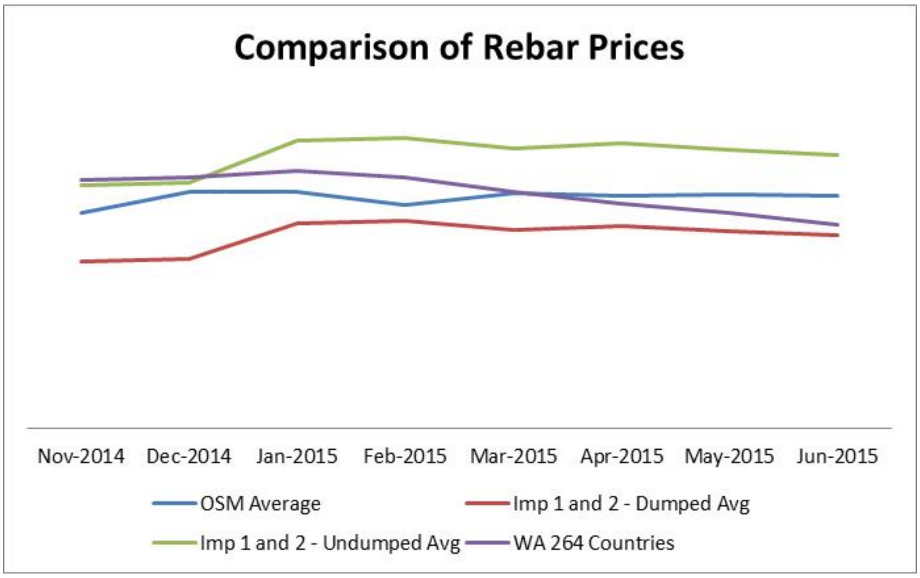

Figure 20– Comparison of delivered rebar prices[40]

Figure 12 indicates that in the investigation period, verified delivered prices of rebar exported from China were significantly below both those of OneSteel and of Investigation 264 countries. Figure 12 also indicates that prices of dumped rebar imports from China were below prices of rebar at un-dumped prices throughout the investigation period. The Commission considers that this further supports the finding that sales of rebar exported from China at dumped prices resulted in OneSteel achieving lower prices than it would have otherwise and thereby caused price suppression. It also indicates that rebar exported from China at dumped prices affected the rest of the Australian rebar market by causing importers of rebar exported from Investigation 264 countries to achieve lower prices. The Commission considers that the impact on the prices of rebar exported from Investigation 264 countries caused increased price competition for OneSteel and thereby indirectly contributed to price suppression suffered by OneSteel.

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[40] Imp 1 and 2 – *Dumped Avg* stands for the verified selling prices of Chinese rebar imports. Imp 1 and 2 *Undumped Avg* includes the weighted average dumping margins (as recommended in this report) added to the verified selling prices of Chinese rebar imports. WA 264 countries line shows the weighted average customs and dumping duty inclusive delivered prices of rebar imported from countries nominated in Investigation No 264.

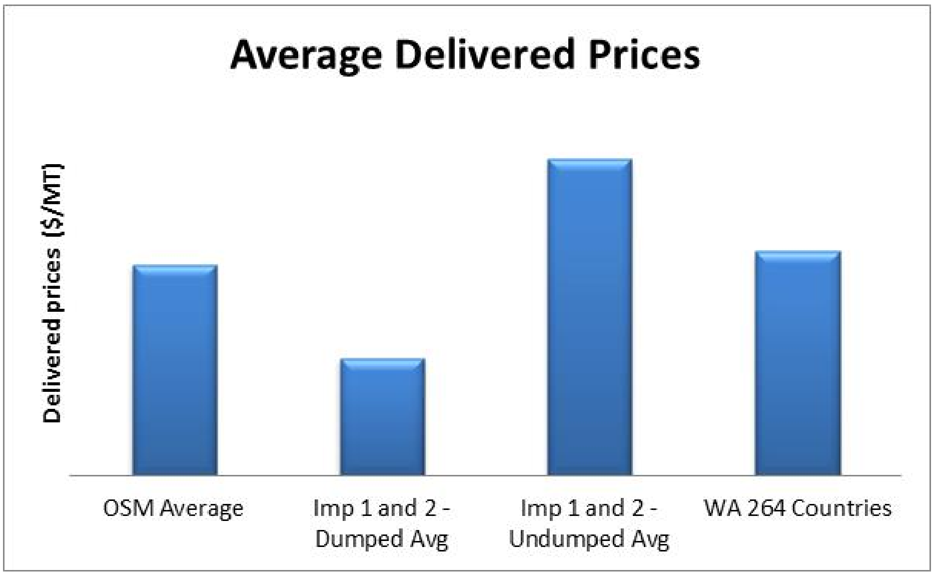

Figure 21 – Comparison of average delivered rebar prices between November 2014 and June 2015

7.8 The impact of undercutting on volumes and market share

As explained in section 6.4, the Commissioner considers that undercutting of OneSteel's prices by rebar exported from China at dumped prices prevented OneSteel from achieving greater volumes and greater market share during the period. Figure 22 compares the total import volumes from Investigation 264 countries and China. Figure 22 indicates China has increased its volume of exports to Australia in the investigation period.

Figure 22 – Import volumes of Investigation 264 countries versus China

The Commission understands that rebar demand is mainly driven by the building and construction industry and that there is no commercially viable substitute product for rebar. IBISWorld estimates that the producer price index of iron and steel will grow by 0.7 per cent in 2015/16. Despite an estimated price increase, IBISWorld states that increased infrastructure spending commitments along with buoyant construction markets, are expected to contribute to greater domestic demand for iron and steel over the next five years.[41]

As indicated in Figure 1 in Chapter 4 of this report, the Australian rebar market has grown since 2011/12 and has been stable between 2013/14 and 2014/15. The Commission considers that sales of rebar exported from China at dumped prices have replaced falling sales of rebar from Investigation 264 countries and has prevented OneSteel from achieving further growth in sales volume and market share. As such, the Commissioner considers that the Australian industry has suffered injury in the form of lower volume and lower market share than it would have achieved but for rebar exported from China at dumped prices.

7.9 The impact of undercutting on profits

As explained in section 6.5, the Commissioner considers that OneSteel would have been able to increase its sales volumes and could have achieved better prices in a market not affected by rebar exported from China at dumped prices. Such increases would have ultimately reflected positively on OneSteel's profits and profitability over the investigation period. Therefore, the Commissioner considers that OneSteel has suffered injury in the form of lower profits than it would have achieved but for rebar exported from China at dumped prices.

7.10 Other relevant economic factors

As explained in section 6.5 and based on the causation analysis outlined above, the Commission has found that the Australian industry has experienced injury in the form of other economic factors related to the production of rebar.

The Commissioner considers that the link between rebar exported from China at dumped prices and injury suffered by OneSteel in the form of price, profit and volume effects has had a negative impact on OneSteel's decisions in respect of other economic factors.

The Commissioner considers that OneSteel has suffered injury in the form of reduced:

- employment;
- value of assets;
- value of capital investment

related to the production of rebar and that this injury has been caused by for rebar exported from China at dumped prices.

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[41] *IBISWorld Business Environment Report - Domestic price of iron and steel, July 2015*

7.11 Submission in response to the SEF in respect of whether dumping has caused injury

The Commission received only one submission in response to the SEF in respect of whether dumping has caused injury.

Yonggang[42]

1. Yonggang submitted that the Commission's use of terms such as 'may' and 'could' in its discussion of price suppression, reduced sales volumes, market share and profits indicated that the Commission did not find that the Australian industry had suffered 'actual' injury. Rather, the injury referred to by the Commission was 'hypothetical'.
2. Yonggang submitted that the Commission's use of the 'but for' method of analysis was not based on positive evidence and lacked rigour. Yonggang contended that the Commission has provided no reasoning related to its assumption that the Australian industry's sales would have replaced sales of rebar exported from China in the absence of dumping and that this has raised two questions:
    - how is it possible in a highly price sensitive market for the lowest priced source (being Chinese imports) to have the smallest share of the market; and
    - how is it possible in a market where price is the major criteria in customers' purchasing decisions for the highest priced source (being countries from investigation No 264) to sell any rebar given the degree to which their products sell at a premium compared to the lowest price source?
3. Yonggang contested the Commission's view that the applicant's injury was material. Yonggang submits that it appears as though the Commission has assumed that the applicant's sales would have replaced Chinese imports in its entirety, and that other import sources would not have replaced a major portion of Chinese imports. Yonggang questions the reliability of any such assessment of the materiality of the injury attributable to the subject imports. Yonggang claims that, to understand the materiality of the injury caused by the subject imports in the context of the 'but for' argument presented by the Commission, it requires hypothesising on the extent to which the applicant and other export sources would have benefited from increased volumes in the absence of imports from China.
4. Yonggang submitted that the price premiums should not be relevant in the examination of price undercutting.
5. Yonggang submitted that in analysing price undercutting, the Commission should compare (and publish in the Final Report) the applicant's delivered

[42] See document number 53 on the public record.

prices relative to non-dumped countries subject to Investigation No. 264 (i.e. Malaysia, Thailand and Turkey). Yonggang claimed that this analysis is particularly important given that non-dumped sources held a greater share in the Australian market than Chinese imports in Investigation No. 264's investigation period.

7.11.1 The Commission's consideration

1. The Commission considers that the choice of language used in the PAD and SEF was appropriate for those particular reports and had no negative impact on the analysis itself. Further, the 'but for' method of analysis used by the Commission is appropriate in the circumstances related to this investigation. Those particular circumstances relate to the performance the Australian industry can reasonably be expected to have achieved in the absence of sales of rebar exported from China at dumped prices.

   The Commission's analysis indicates that the Australian industry's prices were undercut by sales of rebar exported from China at dumped prices. This in turn resulted in the Australian industry suffering material injury and being less prosperous due to the presence of rebar exported from China at dumped prices. The Commission considers that the consequent effects of price undercutting are of such a number and degree, that the injury suffered by the Australian industry is material. The Commission does not consider that this injury can correctly be described as 'hypothetical'.

2. The Commission did not rely on conjecture or assertions in its analysis of injury, nor in any other part of this investigation. Rather, it conducted its investigation in an objective manner and relied on facts and verified evidence including confidential and non-confidential information obtained from the ABF data base, Australian industry, importers and exporters.

   The Commission acknowledges that sales of rebar exported from China represent the smallest share of the market. However, this is due to the low base from which the substantial rate of growth of sales of rebar exported from China commenced. In 2014/15, sales of rebar exported from China increased by 1,375 per cent compared to the previous financial year. The Commission considers that the market characteristic of price sensitivity combined with the imposition of dumping duties on Investigation 264 countries has provided the conditions for sales by exporters of rebar from China at dumped prices to grow at such a rate.

   Over the investigation period, the Australian industry has not been able to capture the fall in sales of rebar from Investigation 264 countries and increase its sales volumes accordingly. The Commission considers that this is because the sales it may have hoped to recover from Investigation 264 countries after the imposition of measures were captured by sales of rebar exported from China at dumped prices. Accordingly, the failure of the Australian industry to achieve the potential growth in market share and profit for rebar is relevant to and suggestive of a conclusion that the Australian industry has suffered material injury from dumped rebar from China.

The Commission considers that the decline of sales of rebar from Investigation 264 countries is rapid and is continuing to be so. The question raised in the submission on how such rebar could sell at all is not a spurious one and supports the finding that sales of rebar exported from China at dumped prices in a price sensitive market are causing injury to all sellers in the Australian rebar market. In relation to Yonggang's questions, the Commission notes that:

- Chinese rebar imports increased by about 1,375 per cent when compared to the previous financial year. Figure 22 above clearly shows that Chinese import volumes are catching up with the total import volumes of the Investigation No. 264 countries.
- It is evident from the graphs at Figure 8 and Figure 22 that Investigation No. 264 countries lost significant sales volumes during the investigation period and as a result lowered their prices. The Commission is of the view that price undercutting from dumped imports from China not only affected OneSteel but also all other imports including the dumped and un-dumped imports from investigation No. 264 countries. The Commission considers that due to this price undercutting, Investigation No. 264 countries had to lower their prices as Figure 20 refers.

As a result, the Commission is of the view that the answers to Yonggang's questions support the Commission's consideration in relation to price sensitivity in the market and the causal link between dumped imports and Australian industry's injury.

3. The Commission does not consider that it is necessary to speculate how much of the volume of rebar imports from China the Australian industry would have replaced had these imports not been dumped. Instead, the Commission considers that the dumped imports from China undercut Australian industry's prices and the prices of the majority of imports from other sources causing downwards pressure on the prices in the Australian rebar market. The Commission is of the view that there would not be any price undercutting from rebar imported from China if these imports were not dumped and there would be scope for Australian industry to increase its sales volumes and prices in a market not affected by rebar exported from China at dumped prices. Such increases would have ultimately reflected positively on the Australian industry's profits and profitability over the investigation period.

   In relation to the injury being material, the Commission refers to *Ministerial Direction on Material Injury*[43] (Ministerial Direction), in relevant part:

   > *material injury material injury is injury which is not immaterial, insubstantial or insignificant…*

   The same Ministerial direction also states that:

[43] *Ministerial Direction on Material Injury* (Minister for Home Affairs, 27 April 2012)

> *I direct that you consider an industry which at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping and subsidisation. I note that anti-dumping or countervailing action is possible in cases where an industry has been expanding its market rapidly, and dumping or subsidisation has merely slowed the rate of the industry's growth, without causing it to contract. In cases where it is asserted that an Australian industry would have been more prosperous if not for the presence of dumped or subsidised imports, I direct that you be mindful that a decline in the industry's rate of growth may be just as relevant as the movement of an industry from growth to decline.*

Consequently, the Commission considers that dumped imports of rebar from China caused material injury to the Australian industry and the Commission's analyses show that the material injury was caused by the dumped imports of rebar from China.

4. The Commission considers that the products being sold in Australian domestic market, whether these were manufactured by the Australian industry or imported from China or Investigation No. 264 countries; are essentially similar and can be used interchangeably. This is extensively discussed in the "Goods and Like Goods" chapter of this report and the previous reports published in this investigation.[44] The Commission does not consider that there are any price premiums that should be excluded from the price undercutting analysis due to an actual or perceived difference or superiority of the products in the market. Therefore, the Commission considers that its undercutting analysis and the charts therein depict the actual price positions in the market and shows that dumped rebar from China has undercut Australian industry's prices.

5. The Commission highlights that, within the 8 graphs that form Figure 19, the fully costed delivered prices from Malaysia, Thailand and Turkey were also compared with delivered dumped and dumping duty inclusive (un-dumped) prices from China. Figure 19 also depicted the comparison of delivered dumped and dumping duty inclusive (un-dumped) prices from China with Australian industry's and Investigation 264 countries' weighted average delivered and duty inclusive (when applicable) sales prices in Australia. The Commission also notes that it is possible for an exporter to undercut Australian industry's prices but not to be found dumping. Therefore, the Commission does not consider that a head to head comparison of Malaysian, Thai and Turkish prices with Australian industry's prices is necessary or required for the purposes of analysis of price undercutting by imports from China.

[44] For PAD 300, see document number 38 and for SEF 300, see document number 46 on the public record.

7.12 The Commissioner’s findings

The Commissioner has found that the Australian industry would have achieved higher prices, profits and sales volumes in the absence of dumped imports of rebar from China. As such, the Australian industry suffered material injury in the form of:

- loss of sales volumes;
- less than achievable market share;
- price suppression;
- less than achievable profits and profitability;
- reduced employment;
- reduced value of assets employed in the production of rebar; and
- reduced value of capital investment in the production of rebar

and that this material injury was caused by sales of rebar exported from China at dumped prices. As directed by the Ministerial Direction, the Commissioner 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.

8 Injury caused by factors other than dumping

8.1 Introduction

During the investigation the Commission considered the following other possible causes of injury:

- the state of Australian domestic rebar market;
- fluctuations in Australian dollar exchange rate; and
- the cost of billet production.

8.2 State of Australian domestic rebar market

Based on the analysis of OneSteel's sales data and ABF import data, there was growth in the Australian market from 2010/11 to 2013/14. From 2012/13 to 2013/14 the growth rate declined to 1 per cent compared to 4 per cent and 10 per cent in the two years prior. The Commission calculated that the Australian rebar market volume did not change significantly between 2013/14 and 2014/15.

The Commission considers that the rebar market has been stable and there is no evidence suggesting that any factor in the Australian rebar market would have caused material injury to Australian industry.

8.3 Fluctuations in the exchange rate

The Commission understands that exchange rate is a key factor that affects locally produced goods' competitiveness against imports.

Figure 23 shows the exchange rates against the US dollar in the investigation period obtained from the Reserve Bank of Australia.[45]

[45] All Chinese rebar exporters price their products in US dollars

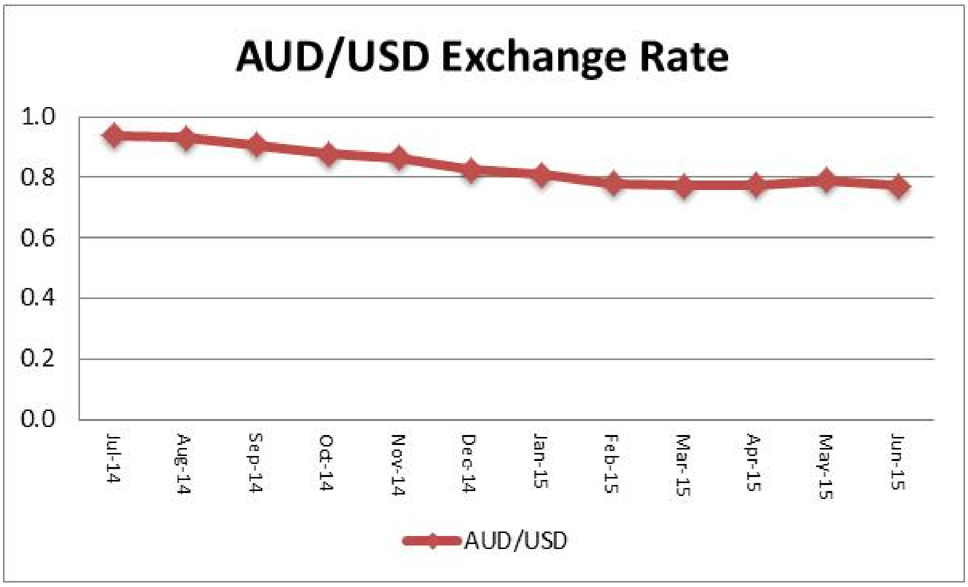

Figure 23 – AUD vs USD exchange rate movements during the investigation period

The Commission's analysis has found that the Australian dollar depreciated during the investigation period. Figure 23 shows that during the investigation period Australian dollar exchange rate fell approximately 17 per cent against the US dollar. The Commission is of the view that the decline in the Australia dollar during the investigation period is likely to have resulted in upward pressure on the price of imported rebar and caused prices of rebar in the Australian market to increase and thereby reduced any potential adverse impact of competition from imported rebar.

8.4 Cost of billet production

The Commission undertook an analysis of OneSteel's billet costs, including analysis of the source of the billet. This analysis indicated that billet, whilst fluctuating for operational reasons was predominately sourced via the EAF and that billet costs had reduced between 2013/14 and 2014/15 in a similar pattern with the international billet prices.

8.5 The Commissioner's assessment

The Commissioner considers that:

- the state of Australian domestic rebar market;
- fluctuations in Australian dollar exchange rate; and
- the cost of billet production

have not caused material injury to the Australian industry producing like goods.

9 WILL DUMPING AND MATERIAL INJURY CONTINUE?

9.1 Preliminary findings

The Commission is of the view that exports of rebar from China in future may be at dumped prices, and that continued dumping would cause further material injury to the Australian industry.

9.2 Introduction

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?

9.3.1 Quantitative analysis

The Commission's dumping analysis found dumping margins between 11.7 per cent and 30.0 per cent for rebar from China during the investigation period.

The Commission notes that forward orders exist for exports from China and that the rebar exported from China has a significant market share and influence in the Australian market.

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 8 month period following the end of the investigation period, that is July 2014, are significantly higher than verified volumes during the investigation period. The Commission notes that the total import volume of rebar from China was approximately 22,500 tonnes during the investigation period but the total imports of rebar from China adds up to approximately 46,700 tonnes in the 8 months following the end of the investigation period. That would be an approximately 70,000 tonnes of export volumes at pro-rata basis for the next 12 months following the investigation period. This shows more than 300 per cent increase in rebar import volumes from China.

Similarly, the Commission observes that the weighted average FOB export prices as recorded in the ABF import database are generally lower than the declared export prices reported in the ABF import database during the investigation period with the exception of the period between July 2014 and November 2014.

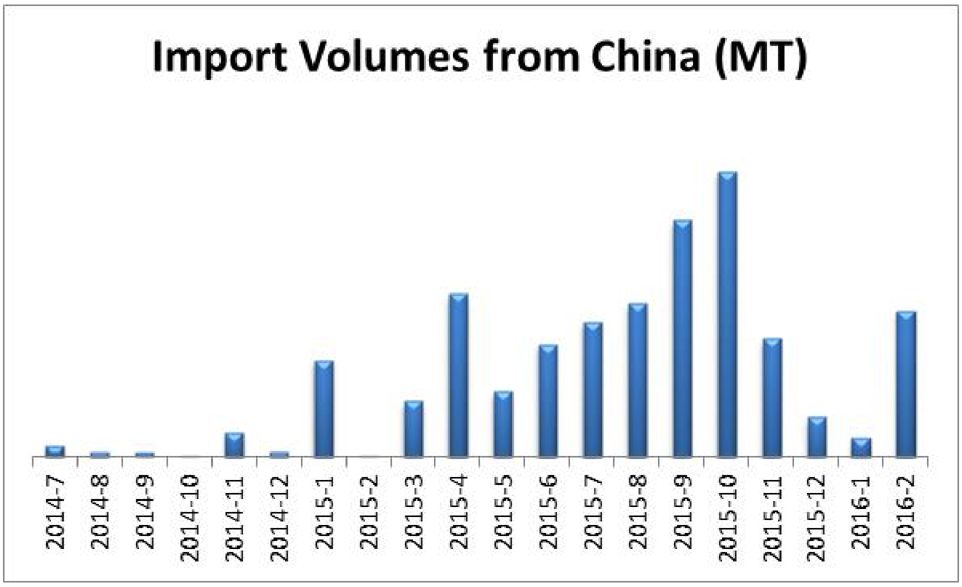

Figure 24 – Monthly import volumes of rebar from China (source: ABF database)

Figure 25 – Weighted average export prices of rebar from China (source: ABF database)

9.3.2 Qualitative analysis

In addition to the quantitative analysis above in, the Commission notes the following facts in relation to the state of steel industry in China:

- It is common knowledge that there is significant excess steel production capacity in China. 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[46] with capacity utilisation averaging around 70 per cent over the past two years.[47]

- An examination of exporter questionnaire responses indicates significant unutilised capacity for all cooperating exporters.
- The Commission calculates that cumulative excess capacities of cooperating exporters are sufficient to easily meet the whole Australian rebar demand.
- It is also known that Chinese domestic demand for steel and rebar in particular weakened significantly, particularly from within the construction sector.[48]
- A recovery in Chinese domestic steel demand is not expected to be imminent.[49]
- All cooperating Chinese exporters are manufacturing rebar using the blast furnaces. Due to the nature of the blast furnace manufacturing process, these manufacturers have limited ability to reduce their production capacities without incurring significant additional costs.
- The Commission notes that, a number other jurisdictions have imposed dumping or safeguard duties on Chinese rebar, steel billet or similar products that the manufacturers produce interchangeably in the same facilities since 2013. As each new country adds trade remedies, the Chinese excess capacity is channelled into a new, alternative marketplace. As such, the increased level of trade remedy findings being made by other jurisdictions increases the likelihood of Chinese steel goods being directed towards Australian markets.

9.3.3 The Commission's consideration

Based on these quantitative and qualitative analysis above, and the magnitude of dumping margins found, the Commission considers that dumping will continue if anti-dumping measures are not imposed.

9.4 Will material injury continue?

The Commission has reviewed the Australian industry's performance over the injury analysis period and has made a finding that rebar exported at dumped prices from China has caused material injury to the Australian industry.

The Commission considers that the continuation of price competition from dumped imports from China is likely to have a continuing adverse impact on the Australian industry.

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

47 Dept. of Industry and Science, June 2015, Resources and Energy Quarterly, June 2015, pp14-15.

48 Global Market Outlook, April 2015, p3. World Steel Review, 01 July 2015, p6.

49 http://www.oecd.org/sti/ind/1-Steel-market-developments-2015Q2.pdf

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

10 NON-INJURIOUS PRICE

10.1 Introduction

Duties may be applied where it is established that dumped imports have caused or 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 the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if the NIP is less than the normal value of the goods.[50]

Pursuant to subsection 8(5BAA) of the *Customs Tariff (Anti-Dumping) Act 1975*, the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty if she is satisfied that either or both of the following apply in relation to the goods the subject of the notice under subsection 269TG(1) or (2):

a) the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii);

b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

10.2 The Commissioner's assessment

The Commissioner recommends that the Parliamentary Secretary be satisfied that, in accordance with subsection 269TAC(2)(a)(ii), the normal value of rebar exported to Australia from China cannot be ascertained under subsection 269TAC(1) because the situation in the Chinese market is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1). As such, the Commissioner notes that the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser rate of duty and the duty must be calculated and taken at full dumping margins in relation to rebar imported from China.

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50 Subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975.*

11 PROPOSED MEASURES

11.1 Introduction

The methods that the Parliamentary Secretary may use to work out the amount of interim dumping duty apply are prescribed in the *Customs Tariff (Anti- Dumping) Regulation 2013*. They are:

- Combination of fixed and variable duty method;
- Floor price duty method;
- Fixed duty method ($X per tonne); and
- Ad valorem duty method (i.e. a percentage of the export price).[51]

11.2 Forms of duty

In considering which form of duty to recommend to the Parliamentary Secretary, the Commissioner has had regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013*[52] (the Guidelines) and relevant factors in the rebar market.

11.2.1 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Parliamentary Secretary exercises powers to ascertain an amount for the export price and the normal value.

11.2.2 Floor price duty method

The floor price duty method sets a 'floor' – for example, a normal value of $100 per tonne – and duty is collected when the actual export price is less than that normal value of $100 per tonne. The floor price is either the normal value or the non-injurious price, whichever becomes applicable under the duty collection system.

This duty method does not use an ascertained export price as a form of 'floor price' as occurs with the combination and fixed duty methods.

11.2.3 *Ad valorem* duty method

The *ad valorem* duty method is one of the simplest and easiest forms to administer when delivering the intended protective effect. It is duty applied as a proportion of the actual export price of the goods.

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[51] Section 5 of the *Customs Tariff (Anti- Dumping) Regulation 2013*

[52] Available at http://adcommission.gov.au/accessadsystem/Documents/Forms%20and%20Guidelines/Guidelineformsofdumpingduty-November2013.pdf

An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin.

11.2.4 Combination duty method

The combination duty comprises two elements: the 'fixed' element and the 'variable' duty element.

The fixed element is determined when the Parliamentary Secretary exercises powers to "ascertain" an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price). It is called a 'variable' element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

11.3 Submissions from interested parties

The Commission has received the following submissions related to proposed form of measures.

OneSteel[53]

OneSteel submitted that the combination of fixed and variable duty method should be used in preference to the *ad valorem* duty method given that:

- there are not many models or types of the goods with significantly different prices – there is a single grade (500N) and there is limited variability between unit prices for straight rebar and rebar in coils;
- there are complex company structures with related parties in the case of all four verified exporters – with particular concerns relevant to the accuracy of the exporters' related trading entities;
- another possible advantage of setting the interim dumping duties (IDDs) by reference to a minimum price (the variable component) is that it tends to stabilise prices quickly following the publication of the dumping duty notice at the levels required to eliminate dumping and material injury to the Australian industry. The fixed and variable method of IDD calculation provides certainty to market participants when factoring in price revisions to the Australian market both in the short and medium terms;

[53] See document number 55 on the public record.

- the availability of the final duty assessment process to the importers, the 'effective' rate of duty remains the same regardless of whether or not the market is 'rising' or 'falling'. Therefore, regardless of the IDD calculated method applied, there is no punitive effect on downstream industries;
- that there is no capacity to collect a short-fall in the effective rate of duty – thereby compounding injury to the Australian industry, and rendering the imposition of the duties ineffective – the fixed and variable method of calculating IDD ensures that there is symmetry within the administration between the economic interests of the domestic industry and exporters/importers of dumped goods; and
- should the ascertained export price (AEP), comprising the variable component of the IDD calculation model, become out-of-date, then it would only be in the context of a falling market, in which case, exporter/importer interests may apply for a variable factors review to address the medium-term impacts (noting that importers have the option of applying for final duty assessments to address un-dumped transactions in the short-term, something that is not open to the Australian industry where insufficient duty has been collected).

OneSteel also submitted that a potential disadvantage of the *ad valorem* duty method is that export prices might be lowered to avoid the effect of this duty. OneSteel submitted that this risk is particularly amplified in the case of a particular market situation finding, where the exporters' variable material costs are not reflective of market conditions and the capacity to drive down price to maintain market share is not confined by the commercial realities of market prices for input costs.

Yonggang[54]

In its submission, Yonggang supports an *ad valorem* duty rate in the event that the Commission continues to recommend that interim dumping duties be imposed. Yonggang quoted the Commission's comments from Report 240 and Report 264 where the Commission explained that the combination method of duties can become outdated and have adverse effects on downstream industries in a falling market. Yonggang then goes on to state that the global steel reinforcing bar price trends continue to keep falling since the start of the investigation period, as a result of falling average steel making costs and inputs. Yonggang claims that whilst prices were falling over the investigation period, prices since the end of the investigation period have continued to fall. Yonggang argues that, in this scenario, export prices and normal values determined during the investigation are already outdated.

[54] See document number 53 on the public record.

11.4 The Commission's consideration

In determining the most appropriate form of measures, the Commission had regard to submissions lodged by interested parties including OneSteel and Yonggang, the Guidelines and relevant factors influencing the rebar market.

The Commission notes that rebar imported from China does not have various price points for different grades or finishes. The *Guidelines on the Application of Forms of Dumping Duty – November 2013* states that the combination of fixed and variable duty method, like the floor price duty method and fixed duty method, may not suit those situations where there are many models or types of the good with significantly different prices.

The Commission acknowledges that rebar, being a globally traded commodity, shows price variation over time. The Commission observes that rebar prices both globally and in the Australian market have been showing a downwards trend since the end of the investigation period in July 2014. The Guidelines note that the 'effective' rate of a combination duty diminishes increases in a declining market making it punitive.

However, the Commission considers that the *ad valorem* form of duties does not suffice to mitigate the risks created by the specific challenges that the steel industry faces.

In particular, the guidelines note that a potential disadvantage of ad valorem duties is that export prices might be lowered to avoid the effects of duty. The analysis in section 9.1.5, the Commission's findings in regards to market situation, willingness of Chinese exporters to lower prices (see Figure 25) are factors which suggest that notwithstanding the potential for anti-circumvention provisions to apply (as noted in the guidelines) a combination duty is appropriate.

The Commission therefore considers that there is a significant risk that the exporters may further reduce their prices to avoid the effects of duty which would result in diminishing the effectiveness of the measures if an *ad valorem* only form of duty is applied. The Guidelines explain that in cases where exporters have room to further decrease their export prices, and the market is sensitive to price instability, a duty method is needed that would prevent further price decreases. In this circumstance, a fixed amount of duty, or an *ad valorem* duty, would not prevent the fall and the floor price method would be preferred.

Based on the risks identified in section 9.1.5 and above, the Commission considers that the advantages of the combination method outweigh its drawbacks for this particular investigation.

The Commission acknowledges that this recommendation differs from the Commission's recommendations in Investigation No. 264 but considers that the circumstances, risks and decision criteria are significantly different in this investigation.

11.5 Proposed measures

The Commission recommends that interim dumping duties be calculated using the combination of fixed and variable duty method (combination method).

The fixed component will be an amount calculated at the full dumping margins calculated, as tabulated below. The variable component will be applicable where the actual export price is below the ascertained export price.

EXPORTER / MANUFACTURER	DUMPING MARGIN	DUTY METHOD
Shandong Shiheng Special Steel Group	15.3%	Combination
Shandong Iron and Steel Company Limited, Laiwu Company	16.4%	Combination
Jiangsu Yonggang Group Co. Ltd.	11.7%	Combination
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	15.2%	Combination
Uncooperative and All Other Exporters	30.0%	Combination

Table 7: Dumping margins and duty method

12 RECOMMENDATION

The Commissioner is satisfied that:

- the dumping of rebar exported to Australia from China has caused material injury to the Australian industry producing like goods.

The Commissioner recommends the Parliamentary Secretary impose:

dumping duties on rebar exported to Australia from China as tabulated below:

EXPORTER / MANUFACTURER	*DUMPING MARGIN*
Shandong Shiheng Special Steel Group	*15.3%*
Shandong Iron and Steel Company Limited, Laiwu Company	*16.4%*
Jiangsu Yonggang Group Co. Ltd.	*11.7%*
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	*15.2%*
Uncooperative and All Other Exporters	*30.0%*

Table 8: Recommended measures

The Commissioner recommends the Parliamentary Secretary be satisfied:

- in accordance with subsection 269TAB(3), that sufficient information has not been furnished, and is not available, to enable the export price of rebar exported to Australia from China by ‘uncooperative’ and ‘all other’ exporters to be determined under subsections 269TAB(1)(a), (b), or (c);
- in accordance with subsection 269TAB(1)(a), that the export prices of rebar exported to Australia from China for Shiheng, Laiwu, Yonggang and Hunan Valin are set out in Confidential Appendix Shiheng 1, Confidential Appendix Laiwu 1, Confidential Appendix Yonggang 1 and Confidential Appendix Hunan Valin 1 correspondingly;
- in accordance with subsection 269TAC(2)(a)(ii), the normal value of rebar exported to Australia from China cannot be ascertained under subsection 269TAC(1) because the situation in the Chinese market is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1);
- in accordance with subsection 269TAC(6), sufficient information has not been furnished and is not available to enable the normal value of rebar exported to Australia from China to be ascertained under subsections 269TAC(2) for ‘uncooperative’ and ‘all other’ exporters;
- in accordance with subsection 269TG(1) the amount of the export price of rebar exported to Australia from China is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods would or might have been caused if the security had not been taken;

- in accordance with subsection 269TG(2) the amount of the export price of rebar exported to Australia from China is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia from China in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused.

The Commissioner recommends the Parliamentary Secretary determine:

- in accordance with subsection 269TAB(3), having regard to all the relevant information, that the export prices for the 'uncooperative' and 'all other' exporters of rebar exported to Australia from China are set out in Confidential Appendix – Uncooperative.
- in accordance with subsection 269TAC(2)(c), that, for the purposes of calculating the normal value of rebar exported from China, the cost of production or manufacture of the goods in the country of export are as set out in Confidential Appendix - Shiheng 2, Confidential Appendix - Laiwu 2, Confidential Appendix - Yonggang 2 and Confidential Appendix - Hunan Valin 2; on the assumption that rebar, instead of being exported, had been sold for home consumption in the ordinary course of trade in China, the administrative, selling and general costs associated with the sale and the profit on that sale are as set out in Confidential Appendix - Shiheng 4, Confidential Appendix - Laiwu 4, Confidential Appendix - Yonggang 4 and Confidential Appendix - Hunan Valin 4;
- in accordance with subsection 269TAC(6), having regard to all relevant information, that normal values for the 'uncooperative' and 'all other' exporters of rebar exported to Australia from China are as set out in Confidential Appendix - Uncooperative;
- in accordance with subsections 269TACB(1) and 269TACB(2)(a), by comparison of the weighted average of export prices over the whole of the investigation period and the weighted average of corresponding normal values over the whole of that period, that exports of rebar from China were dumped.

The Commissioner recommends the Parliamentary Secretary direct:

- in accordance with subsection 269TAC(9), the normal value of rebar, as ascertained in accordance with subsection 269TAC(2)(c), be adjusted as set out in Confidential Appendix - Shiheng 4, Confidential Appendix - Laiwu 4, Confidential Appendix - Yonggang 4 and Confidential Appendix - Hunan Valin 4; those adjustments being necessary to ensure that the normal value so ascertained is properly comparable with the export price of those goods.

The Commissioner recommends the Parliamentary Secretary declare:

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to:

- o rebar exported by all exporters from China to the extent permitted by section 269TN; and
- o like goods that were exported to Australia by all exporters from China after the Commissioner made a PAD under subsection 269TD on 21 December 2015 but before publication of the notice, to the extent permitted by section 269TN[55]; and

- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from China after the date of publication of the notice.

[55] Securities taken in relation to PAD 300 published on 21 December 2015 were amended on 8 February 2016 to reflect the findings contained in SEF 300 (ADN 2016/10 refers).

13 APPENDICES AND ATTACHMENTS

Appendix 1	Market situation assessment
Attachment 1	Submissions received - summary
Confidential Appendix – Shiheng 1	Shiheng's export price
Confidential Appendix – Shiheng 2	Shiheng's CTMS data
Confidential Appendix – Shiheng 3	Shiheng's domestic sales and OCOT test
Confidential Appendix – Shiheng 4	Shiheng's normal value calculations
Confidential Appendix – Shiheng 5	Shiheng's dumping margin calculations
Confidential Appendix – Laiwu 1	Laiwu's export price
Confidential Appendix – Laiwu 2	Laiwu's CTMS data
Confidential Appendix – Laiwu 3	Laiwu's domestic sales listing
Confidential Appendix – Laiwu 4	Laiwu's normal value calculations
Confidential Appendix – Laiwu 5	Laiwu's dumping margin calculations
Confidential Appendix – Yonggang 1	Yonggang's export price
Confidential Appendix – Yonggang 2	Yonggang's CTMS data
Confidential Appendix – Yonggang 3	Yonggang's domestic sales and OCOT test
Confidential Appendix – Yonggang 4	Yonggang's normal value calculations
Confidential Appendix – Yonggang 5	Yonggang's dumping margin calculations
Confidential Appendix – Hunan Valin 1	Hunan Valin's export price
Confidential Appendix – Hunan Valin 2	Hunan Valin's CTMS data

Confidential Appendix – Hunan Valin 3	Hunan Valin's domestic sales and OCOT test
Confidential Appendix – Hunan Valin 4	Hunan Valin's normal value calculations
Confidential Appendix – Hunan Valin 5	Hunan Valin's dumping margin calculations
Confidential Appendix - Uncooperative	Uncooperative and all other exporters' dumping margin calculations
Confidential Appendix – Volume Injury	Volume injury spreadsheets
Confidential Appendix – Australian Market	Australian market assessment
Confidential Appendix - Price Injury	Price injury assessment

APPENDIX 1: ASSESSMENT OF A PARTICULAR MARKET SITUATION FOR STEEL REINFORCING BAR INDUSTRY IN PEOPLE'S REPUBLIC OF CHINA

1. Introduction

This appendix provides an assessment and determination of a 'particular market situation' (market situation) in relation to steel reinforcing bar (rebar) 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 rebar in China.

1.1 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 rebar market that rendered sales in that market unsuitable for determining normal value under subsection 269TAC(1) of the *Customs Act 1901* (the Act).

OneSteel's claim alleges that the continued intervention by the Government of China (Chinese Government) in the Chinese iron and steel industry (Chinese steel industry) had distorted the domestic price of rebar in China during the investigation period and hence made it 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.

1.1.1 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 the Steel Industry).

1.2 Background

The Act does not provide any definition of particular circumstances or factors which would satisfy the Minister[56] 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.

56 The Minister for Industry, Innovation and Science has delegated respons bility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker. 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.

In relation to determining whether a 'market situation' exists, the Anti-Dumping Commission's (the Commission's) *Dumping and Subsidy Manual*[57] states:

> *Sales that would otherwise be relevant for determination of normal value may be unsuitable because the price does not reflect a fair price in normal market conditions. The legislation does not define market situations that would render domestic sales as unsuitable. The investigation and analysis of each case must fully set out the reasons for the unsuitability of sales before determining normal value under succeeding provisions of section 269TAC of the Act.*
>
> *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.*[58]

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.

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57 Anti-Dumping Commission, December 2013, *Dumping and Subsidy Manual*. www.adcommission.gov.au/accessadsystem/Documents/DumpingandSubsidyManual-December2013_001.pdf

58 *Dumping and Subsidy Manual*, pp 33-34.

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:

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 subparagraph 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 *Customs (International Obligations) Regulations 2015* (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 Minister to consider. In doing so, the Minister 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 subparagraph 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.

1.3 Information relied upon

The Commission provided the Chinese Government with a 'Government Questionnaire' in July 2015. The Chinese Government subsequently declined to submit a response to the questionnaire. The non-cooperation by the Chinese Government meant that the Commission's assessment of its impact on the market conditions during the investigation period was based on 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 reinforcing bar exported from the People's Republic of China.
- Previous investigations undertaken by the Commission in relation to the Chinese steel industry.
- An investigation into 'certain concrete reinforced bar' originating from the People's Republic of China undertaken by the Canada Border Services Agency (CBSA). [59]
- Information obtained through the Commission's research and analysis.

[59] 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.

1.4 Previous investigations undertaken by the Commission

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).

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).

2. 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 adopted this approach because of the Chinese Government's non-cooperation with the Commission's 'Government Questionnaire' left the Commission with limited information upon which to make its assessment.

2.1 Chinese steel industry: Overview

2.1.1 Chinese steel market: Current conditions

2.1.1.1 Conditions within the Chinese rebar market

During the investigation period, the average monthly price for rebar in China (domestic price for Chinese rebar) fell from around USD 494 per tonne to USD 308 per tonne.[60] The weakness in the domestic price of Chinese rebar was the result of continued high levels of supply and a recent weakening in demand, particularly from within the construction sector.[61]

The decline in the domestic price for Chinese rebar 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 rebar fell from USD 667 in the 2010-11 financial year to USD 408 in the 2014-15 financial year.[62]

The Commission holds that while weaker domestic demand for Chinese rebar contributed to declining prices during the investigation period, the primary factor was the high ongoing level of rebar production and resulting excess supply.[63]

2.1.1.2 Conditions within the Chinese steel industry

The prevailing conditions within the Chinese rebar market during the investigation period were consistent with the conditions within the broader Chinese steel industry. These conditions included significant excess production capacity and supply, 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[64] with capacity utilisation averaging around 70 per cent over the past two years.[65] Furthermore, it is estimated that in early 2015 around 50 per cent of the overcapacity in the global steel industry was located in China.[66]

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[60] Average Domestic Rebar Price (sourced from Platts).

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

[62] Average Domestic Rebar Price (sourced from Platts).

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

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

[65] Dept. of Industry and Science, June 2015, Resources and Energy Quarterly, June 2015, pp14-15.

[66] Platts Insight 201, 27 March 2015.

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 per cent to 50 per cent. 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 per cent in January 2014 to 15 per cent in December 2014.[67]

The Commission holds that the 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 increase cash flow and profitability. For example, in 2014, China's steel exports increased by around 50 per cent (year on year) to around 94 million tonnes. Similarly, in the first seven months of 2015, Chinese steel exports increased by a further 27 per cent (year on year). The primary destinations for China's steel exports were South Korea, India and Vietnam.[68]

2.1.2 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 per cent.[69] 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.

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.[70] 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).[71] During the investigation period the Chinese Government

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67 Dept. of Industry, Resources and Energy Quarterly, March 2015, p25.

68 Dept. of Industry, Internal Briefing Notes.

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

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

71 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.

also announced plans to shut 47 mt of steel capacity[72] and a further 80 mt by 2017.[73]

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).[74] 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.[75] 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.[76]

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.[77] 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 six per cent (on a year on year basis)[78] and that the provision of funding by Chinese banks to the Chinese steel industry was increasingly being directed at state owned steel producers.[79]

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

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[72] Dept. of Industry, Resources and Energy Quarterly, September 2014, p23.

[73] 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.

[74] Dept. of Industry, Innovation and Science, Internal Briefing Notes.

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

[76] Platts Insight 201, 27 March 2015.

[77] Platts Insight 201, 15 May 2014.

[78] Metals Insight, 13 August 2015, p3.

[79] Metals Insight, 13 August 2015. p3.

the excess supply and suppressed prices experienced during the investigation period.

2.2 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 rebar steel in the domestic Chinese market and hence significantly influenced domestic price for Chinese rebar 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.

2.2.1 Influence of Chinese Government

2.2.1.1 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.[80] The CBSA's '*Statement of Reasons'* report 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 per cent 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.[81]

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 rebar 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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[80] CBSA, 2014, p14.
[81] [82] 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).*

2.2.1.2 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.

<u>National Steel Industry Development Policy (2005)</u>[82]

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

<u>Blueprint for the Adjustment and Revitalisation of the Steel Industry (2009)</u>[83]

- 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.

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[82] CBSA, 2014, p 17.
[83] CBSA, 2014, p 17.

2011-2015 Development Plan for the Steel Industry (2011)[84]

- 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.
- 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)[85]

- Top ten companies accounting for 60 per cent 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)[86]

- 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.[87]

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[84] CBSA, 2014, p 18.
[85] http://rhg.com/notes/beijings-2015-industry-consolidation-targets-problem-or-solution
32http://www.eurofer.eu/Issues%26Positions/Trade/ws.res/Steel_Industry_Adjustment_Policy_Comments_Appendix.fhtml/Steel_Industry_Adjustment_Policy_Appendix.pdf
[87] Dept. of Industry and Science, 2015, *China Resources Quarterly*, Southern Autumn – Northern Spring, p15.

- Lift capacity utilisation rates to 80 per cent by 2017.[88]

Following the release of China's revised steel industry adjustment policy, a group of eight steel industry associations of North America, Latin America, and Europe issued a joint statement dated 20 April 2015 voicing their concerns about the approach of the Chinese government in achieving its policy objectives. In the conclusion of this joint statement, these industry associations state that:[89]

> *… we believe that the Policy does not introduce market-oriented reforms that are sufficient to achieve these goals and will therefore not adequately address the significant problems facing the Chinese steel industry. Unfortunately, the Adjustment Policy continues to reflect a top-down, state-dominated approach to reforming the steel industry – thereby maintaining an environment where market forces do not apply. In our view, the only way to achieve the Policy's stated objectives are to eliminate government interference in the industry and allow basic market forces to dictate industry outcomes.*

The steel industry associations also raised concerns regarding the continuation of extensive government control and direction over the Chinese steel industry and urged the Chinese Government to eliminate its interference in the industry and allow basic market forces to dictate industry outcomes.

2.2.1.3 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'.

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

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88 Dept. of Industry and Science, 2015, *China Resources Quarterly*, Southern Autumn – Northern Spring, p15.

89 https://www.steel.org/.../Public%20Policy/.../Steel_Industry_Adjustment__Policy_Comments.pdf

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.

2.2.2 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 measures directly contributed to the state of the Chinese steel industry and rebar market during the investigation period. Examples of the types of subsidies provided to the Chinese steel industry are set out below.[90]

- 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.

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[90] 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.

- 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.

2.2.3 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 rebar. Through its involvement in these companies, the Chinese Government is able to exert significant influence over the Chinese steel industry. 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 per cent 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. [91] [92] 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.* [93] *These companies includes: Hebei Steel Group; Baosteel Group; Ansteel Group; Wuhan Steel Group; Shougang Group; Maanshan Steel; Tianjin Bohai Steel; and Benxi Steel Group.*

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).[94] 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

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[91] 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 per cent of total Chinese crude steel production.

[92] CBSA, 2014, p14.

[93] Based on 2014 production. World Steel Association.

[94] 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.

(Chongang) and POSCO signed Investment MOU (USD 3.3 bn) (signed July 2014).[95]

2.2.4 Taxation arrangements

The Chinese Government has traditionally operated, amongst other taxation arrangements, a Value Added Tax (VAT). Under the Chinese VAT system, a 17 per cent 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.

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 per cent of exports.[96] While VAT rebates for boron have been recently reduced, they remain in place for other additives such as chromium.[97]

At present (and during the investigation period) the Chinese Government does not apply VAT export rebates to non-alloy rebar but it does apply an export tax of around 15 per cent. 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 rebar through the application of export taxes on Chinese billets, which accounts for between 80 to 85 per cent of the total rebar production cost.[98]

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.[99] Due to the non-cooperation by the

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[95] 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.

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

[97] Metals Insight, 14 May 2015, p4

[98] Anti-Dumping Commission calculations.

[99] 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.

Chinese Government, the Commission was unable to confirm whether these taxation and quota arrangements were active during the investigation period. As in the case of rebar 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 rebar 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 rebar prices and the degree to which billet and rebar 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 rebar prices, the depressing effect on rebar prices would be direct. Where lower raw material prices are able to be retained by billet and rebar producers as increased profit, this would create incentives for these producers to expand production and hence have a depressing effect on domestic Chinese rebar prices, by further increasing the level of domestic supply relative to demand.

2.3 Chinese rebar 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 rebar 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 rebar market, the domestic price for Chinese rebar 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 rebar was influenced by the Chinese Government to a degree which makes domestic sales of rebar unsuitable for use in determining normal values under subsection 269TAC(1).

Attachment 1

Date Received	Submission from	Subject of Submission	EPR No.
21 August 2015	J Bracic & Associates on behalf of Shandong Shiheng Special Steel Co Ltd	Response to original application for the publication of dumping and/or countervailing duty notices on steel reinforcing bar exported from China	19
28 August 2015	J Bracic & Associates on behalf of Jiangsu Yonggang Group Co Ltd	Response to original application for the publication of dumping and/or countervailing duty notices on steel reinforcing bar exported from China	21
25 September 2015	Varna Investments Pty Ltd	Response to original application that OneSteel does not sell rebar to end users	23
16 October 2015	OneSteel Manufacturing Pty Ltd	OneSteel requests Commission to impose provisional measures	25
23 October 2015	OneSteel Manufacturing Pty Ltd	Further submission from OneSteel for the Commission not to consider that the Chinese exporters costs of billets are reflective of competitive market costs due to the influence of the Government of Chin in the Chinese iron and steel	26
23 October 2015	OneSteel Manufacturing Pty Ltd	Attachment to support EPR 26 -Submission of the Australian industry: existence of a particular market situation in Chinese steel markets and the reasonableness of Chinese steel input costs	27
23 October 2015	OneSteel Manufacturing Pty Ltd	Attachment to support EPR 26 - AEGIS Europe *Assessment of the normative*	28

Date Received	Submission from	Subject of Submission	EPR No.
		and policy framework governing the Chinese economy and its impact on international competition	
23 October 2015	OneSteel Manufacturing Pty Ltd	Attachment to support EPR 27 - Canada Border Services Agency - Statement of Reasons concerning the final determinations with respect to the dumping of certain concrete reinforcing bar exported from China	29
28 October 2015	OneSteel Manufacturing Pty Ltd	OneSteel's views regarding on-the-spot verification of 2 of the 4 cooperative exporters of steel reinforcing bar from China	30
4 November 2015	J Bracic & Associates on behalf of Jiangsu Yonggang Group Co Ltd	Response to OneSteel's submissions requesting a PAD and OneSteel's comparison of ADC methodologies with the Canadian Border Service Agency and constructed normal value	32
6 November 2015	J Bracic & Associates on behalf of Shandong Shiheng Special Steel Co Ltd	Response to OneSteel's submissions requesting a PAD and OneSteel's comparison of ADC methodologies with the Canadian Border Service Agency, constructed normal value, with additional comments on verification.	33
11 January 2016	Donway & Partners on behalf of Hunan Valin Xiangtan Iron & Steel Co Ltd	Response to PAD	39
13 January 2016	J Bracic & Associates on behalf of Shandong Shiheng Special	Response to PAD	40

Date Received	Submission from	Subject of Submission	EPR No.
	Steel Co Ltd		
6 January 2016	Zhong Lun Law Firm on behalf of Shandong Iron and Steel Co Ltd, Laiwu Company	Response to PAD	43
15 January 2016	J Bracic & Associates on behalf of Jiangsu Yonggang Group Co Ltd	Response to PAD	44
5 February 2016	Trade Remedy and Investigation Bureau Ministry of Commerce of the People's Republic of China	Response to PAD	50
28 February 2016	J Bracic & Associates on behalf of Jiangsu Yonggang Group Co Ltd	Response to SEF	51
28 February 2016	J Bracic & Associates on behalf of Shandong Shiheng Special Steel Co Ltd	Response to SEF	52
28 February 2016	J Bracic & Associates on behalf of Jiangsu Yonggang Group Co Ltd	Response to SEF	53
29 February 2016	OneSteel Manufacturing Pty Ltd	Response to SEF	54
29 February 2016	OneSteel Manufacturing Pty Ltd	Attachment to support EPR 54 – *The South African Iron and Steel Value Chain*	55
29 February 2016	OneSteel Manufacturing Pty	Attachment to support EPR 54 – *Interpretation and Characterisation of Seismic*	56

Date Received	Submission from	Subject of Submission	EPR No.
	Ltd	*Performance of Rebar in Domestic and International Standards*	
29 February 2016	OneSteel Manufacturing Pty Ltd	Attachment to support EPR 54 – *Square Billet in Focus*	57
29 February 2016	OneSteel Manufacturing Pty Ltd	Attachment to support EPR 54 – *Vanadium in Medium and High Carbon Steels*	58
4 March 2016	J Bracic & Associates on behalf of Jiangsu Yonggang Group Co Ltd	Response to original application for the publication of dumping and/or countervailing duty notices on steel reinforcing bar exported from China	59
4 March 2016	Doway & Partners on behalf of Hunan Valin Xiangtan Iron & Steel Co Ltd	Response to SEF	60
15 March 2016	OneSteel Manufacturing Pty Ltd	Benchmarks. (This submission was received after the date when the Commissioner was not obliged to regard it if it would delay the timely preparation of this report. It related to matters that had already been raised in a previous submission and that has been considered by the Commissioner. As such, the Commissioner did not pay regard to this submission.)	61