



ANTI-DUMPING NOTICE NO 2023/048

Customs Act 1901 – Part XVB

Railway Wheels

Exported from the People’s Republic of China and France

Initiation of a Continuation Inquiry No 632 into Anti-Dumping Measures

Notice under section 269ZHD(4) of the Customs Act 1901

I, Isolde Lueckenhausen, the Acting Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice, in respect of certain railway wheels (the goods) exported to Australia from the People’s Republic of China (China) and France is justified.

The anti-dumping measures are due to expire on 16 July 2024 (specified expiry day).¹

1. The goods

The goods subject to the anti-dumping measures and this inquiry are:

Forged and rolled steel, high hardness, nominal 38-inch (or 966 mm to 970 mm) diameter, railway wheels, whether or not including alloys.

The applicant at the time of the original investigation supplied the following additional information in relation to the goods:

Axles and other components are excluded from the goods coverage.

The railway wheels are manufactured in accordance with the relevant user defined specifications and drawings, and are used on rail carriages used to transport iron ore.

The users of these type of railway wheels are:

- BHP Ltd
- Rio Tinto Ltd
- Fortescue Mining Group
- Roy Hill Holdings Pty Ltd.

¹ On and from 17 July 2024, if not continued, the anti-dumping measures would no longer apply.

The railway wheels used in all user applications have the following typical characteristics:

- 38 inch or 966 mm to 970 mm diameter and of similar overall dimensional tolerances and shape
- manufactured from a high carbon steel with the addition of micro alloying elements to achieve hardness and mechanical properties as defined in the user specifications
- manufactured using a forging and rolling process in accordance with defined standards
- suitable to operate at axle loads above 36 metric tonnes
- a multi-wear rim.

The goods are generally, but not exclusively, classified to the following tariff subheading of Schedule 3 to the *Customs Tariff Act 1995*:²

Tariff Subheading	Statistical Code	Description
8607	PARTS OF RAILWAY OR TRAMWAY LOCOMOTIVES OR ROLLING-STOCK:	
8607.1	-Bogies, bissel-bogies, axles and wheels, and parts thereof:	
8607.19.00	--Other, including parts	
	20	<i>Wheels, whether or not fitted with axles.</i>

2. Background to the anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 16 July 2019 by the then Minister for Industry, Science and Technology.³ This followed her consideration of the Commissioner’s recommendation in *Anti-Dumping Commission Report No 466* (REP 466) as a result of Investigation No 466 (original investigation).

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901*⁴ by Commonwealth Steel Company Pty Ltd (Comsteel) representing the Australian industry producing like goods to the goods subject to the anti-dumping measures.

Further detail on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission’s (commission) website (www.adcommission.gov.au).

² This tariff classification and statistical code may include goods that are both subject and not subject to the anti-dumping measures. The listing of the tariff classification and statistical code is for convenience or reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

³ Anti-Dumping Notice (ADN) No 2019/30.

⁴ All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with section 269ZHB(1), the Commissioner published a notice⁵ on the commission's website on 16 May 2023. The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)), or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

On 14 July 2023, an application for the continuation of the anti-dumping measures was received from Comsteel. A non-confidential version of the application is available on the commission's public record.

Having regard to the application and the original investigation, I am satisfied that Comsteel is the person under section 269ZHB(1)(b)(i) because Comsteel's application under section 269TB resulted in the existing anti-dumping measures.

4. Consideration of application under section 269ZHD(1)

Pursuant to section 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in section 269ZHD(2). These are:

- the application complies with section 269ZHC (section 269ZHD(2)(a)), and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (section 269ZHD(2)(b)).

5. Assessment under section 269ZHD(2)(a) - compliance with section 269ZHC

I consider that the application complies with the requirements of section 269ZHC because it:

- is in writing
- in a form approved by me for the purposes of this section
- contains information that the form requires
- is signed in the manner indicated in the form, and
- was lodged in a manner approved under section 269SMS, being by email to the commission's email address provided in the instrument under section 269SMS.⁶

⁵ ADN No 2023/027 refers.

⁶ A copy of the instrument can be found on the commission's website at www.adcommission.gov.au.

6. Assessment under section 269ZHD(2)(b) - reasonable grounds

Applicant's claims

In its application, Comsteel claims, among other things, that:

- Since the imposition of measures in 2019, exports to Australia from China have continued while exports from France have ceased. However, due to the common ownership between the relevant producing companies and exporters in both countries, exports from France may resume if measures applying to goods exported from France, but not China, were discontinued.
- Maanshan Iron & Steel Co., Ltd ('Ma Steel', an exporter of the goods from China) has continued to supply railway wheels directly to end-users in Australia and has maintained distribution links in Australia.
- The goods exported from China in the year ending 30 June 2023 were dumped above negligible values. Therefore, it would be likely that future exports of railway wheels to Australia would also be at dumped prices.
- The Steel Industry Profitability data from the CRU Group shows a dramatic (-20%) decline in the profitability and price of steel since 2018 because of softening domestic demand in China for steel products. To maintain production utilisation rates, Chinese producers are aggressively pricing exports to secure increased sales volume, which increases the likelihood of exporting at dumped prices.
- If measures expire, the Australian industry will experience a recurrence of material injury. Comsteel continues to experience price pressures in 2023 from dumped exports from China, resulting in unsuccessful tender supply outcomes and lost sales volumes since imposition of the measures in 2019.

To support its assertions in its application, Comsteel has relied on information such as the maintenance of distribution links, the value of exports of railway wheels from China and France, feedback from its customers, and its own estimates of current export prices and normal values.

The commission's consideration

In assessing Comsteel's application, the commission considered the information provided in the application, information obtained from the Australian Border Force (ABF) import database, findings from REP 466, as well as other information relevant to the application.

The commission examined information it obtained from the ABF import database and observes that exporters from China have continued to export the goods to Australia in substantial volumes since the imposition of the anti-dumping measures in 2019. This confirms that manufacturers in China have maintained distribution links into the Australian market. The commission also observes that exports of the goods to Australia from France have ceased since the imposition of securities in 2018.⁷ The commission considers that it is likely that exports from France ceased because the rate of security (and subsequently the rate of dumping duty) imposed on those exports was considerably higher than the rate imposed on goods exported from China, which made the goods exported from France relatively less competitive. Noting that the producers and exporters of the goods in China and France are ultimately owned and controlled by the same company or group based

⁷ A preliminary affirmative determination was published on 18 June 2018, and securities were taken on the goods entered for home consumption on and after 19 June 2018.

in China, the commission considers that there appear to be reasonable grounds to support Comsteel's assertion that exports from France may likely resume if the measures expire.

The commission also examined Comsteel's estimate of the export price, normal value and dumping margin of the goods exported to Australia from China during the 2022-23 financial year. The commission compared Comsteel's estimate of the export price to the export prices as recorded in the ABF import database. The commission also compared Comsteel's estimate of the normal value to the commission's estimate derived from data provided by Comsteel in its application, data from the original investigation and publicly available information relating to a Chinese exporter's selling and administrative expenses and profit. Based on this comparison, the commission considers that Comsteel's estimate of the export price, normal value and dumping margin is reasonable, and indicates that dumping has continued, and may continue or recur if the measures were to expire.

As outlined in REP 466, the commission found that procurement decisions made by end users of railway wheels in Australia were predominantly based on price. In its application, Comsteel maintains that demand for railway wheels for the transportation of iron ore in Australia remains price sensitive. Given the price sensitive nature of the Australian market for railway wheels, any pricing advantage achieved by exporters because of dumping will have an adverse impact on the Australian industry's relative competitiveness in tenders for supply.

The commission considers that should the measures expire, it appears reasonable to conclude that exporters from the subject countries would likely obtain a price advantage over the Australian industry by dumping. Such a price advantage might result in reduced or lost sales volumes and market share (as was established in the original investigation) and might also result in price depression and/or price suppression as the Australian industry strives to compete with lower priced imports. Volume and price related injury would in turn likely be detrimental to other economic factors such as revenue, profit and profitability.

Having regard to the application, Comsteel's claims and other relevant information set out in this notice, I am satisfied that, in accordance with section 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

7. Conclusion

Based on the above findings, I have therefore decided to not reject the application.

8. This continuation inquiry

For the purpose of this inquiry, the Commissioner will examine the period from 1 July 2022 to 30 June 2023 (the inquiry period) to determine whether dumping has occurred.

Following the inquiry, the Commissioner will recommend to the Minister for Industry and Science (Minister) whether the notice should:

- (i) remain unaltered, or
- (ii) cease to apply to a particular exporter or to a particular kind of goods, or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained, or
- (iv) expire on the specified expiry day.

9. Public record

The Commissioner must maintain a public record for this inquiry. The Electronic Public Record (EPR) hosted on the commission's website (www.adcommission.gov.au) contains, among other things, a copy of all non-confidential submissions from interested parties. Documents hosted on the EPR can be provided upon request to interested parties.

10. Submissions

Interested parties, as defined in section 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than the close of business on 20 September 2023, being 37 days after publication of this notice. The commission's preference is to receive submissions by email to investigations4@adcommission.gov.au.

Submissions may also be addressed to:

The Director, Investigations 4
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Interested parties wishing to lodge written submissions must ensure that submissions are lodged promptly. Interested parties should note that the Commissioner is not obliged to have regard to a submission received after the date indicated above if to do so would, in their opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy the Commissioner that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "OFFICIAL: Sensitive". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

11. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable the Commissioner to report to the Minister within the legislative timeframe. The Commissioner will place the SEF on the public record on or before 2 December 2023, that is, within 110 days after the publication of this notice, or by such later date as the Commissioner may allow in accordance with section 269ZHI(3). The SEF will set out the essential facts on which the Commissioner proposes to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing the report and recommendation to the Minister.

12. Report to the Minister

The Commissioner will make a recommendation to the Minister in a report on or before 16 January 2024, that is, within 155 days after the date of publication of this notice, or such later date as the Commissioner may allow in accordance with section 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

13. Contact

Enquiries about this notice may be directed to the Case Manager by emailing investigations4@adcommission.gov.au.

Isolde Lueckenhausen
Acting Commissioner
Anti-Dumping Commission

14 August 2023