PUBLIC RECORD

Australian Government
Department of Industry, Science and Resources

Anti-Dumping Commission

CUSTOMS ACT 1901 – PART XVB

STATEMENT OF ESSENTIAL FACTS

NO 632

INQUIRY INTO THE CONTINUATION OF ANTI-DUMPING MEASURES ON

CERTAIN RAILWAY WHEELS

EXPORTED TO AUSTRALIA FROM THE PEOPLE'S REPUBLIC OF CHINA AND THE FRENCH REPUBLIC

28 MARCH 2024

CONTENTS

ABBREVIATIONS

ABF	Australian Border Force
the Act	*Customs Act 1901* (Cth)
ADN	Anti-Dumping Notice
BHP	BHP Iron Ore Pty Ltd
Brazil	the Federative Republic of Brazil
China	the People's Republic of China
China Baowu Group	China Baowu Steel Group Corporation Limited
the commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
Comsteel	Commonwealth Steel Company Pty Ltd
DCR	Dumping Commodity Register
the Dumping Duty Act	*Customs Tariff (Anti-Dumping) Act 1975* (Cth)
CTM	cost to make
CTMS	cost to make and sell
EAF	electric arc furnace
EPR	electronic public record
FMG	Fortescue Mining Group
France	the French Republic
GAAP	generally accepted accounting principles
GOC	Government of China
the Guidelines	*Guidelines on the Application of Forms of Dumping Duty November 2013*
HKEX	Stock Exchange of Hong Kong
ICD	interim countervailing duty
IDD	interim dumping duty
India	the Republic of India
the inquiry period	1 July 2022 to 30 June 2023
Iran	the Islamic Republic of Iran

Italy	the Italian Republic
the Manual	Dumping and Subsidy Manual
Masteel Group	Magang (Group) Holding Co Ltd
the measures	The anti-dumping measures the subject of this inquiry
Mexico	the United Mexican States
the Minister	the Minister for Industry and Science
MIS	Maanshan Iron & Steel Co Ltd
MIIT	Ministry of Industry and Information Technology
MTM	Baowu Group Masteel Rail Transit Materials Technology Co Ltd
NIP	non-injurious price
NDRC	National Development and Reform Committee
OCOT	ordinary course of trade
OECD	Organisation for Economic Co-operation and Development
the original investigation	Investigation 466
Pakistan	the Islamic Republic of Pakistan
Railway wheels	Iron ore railway wheels, the railway wheels subject to the anti-dumping measures.
the Regulation	*Customs (International Obligations) Regulation 2015* (Cth)
REP 466	*Anti-Dumping Commission Report No 466*
REQ	response to the exporter questionnaire
Rio Tinto	Pilbara Iron Company
ROI	return on investment
Roy Hill	Roy Hill Holding Pty Ltd
Russia	the Russian Federation
SASAC	State-Owned Assets Supervision and Administration Commission
SEF	statement of essential facts
SG&A	selling, general and administrative
SOE	state-owned enterprise
South Korea	the Republic of Korea

the specified expiry date	the date the measures are due to expire
the subject countries	China and France
Türkiye	the Republic of Türkiye
USP	unsuppressed selling price
Valdunes	MG-Valdunes SAS
WTO	World Trade Organization
YE	year end

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether to continue the anti-dumping measures (the measures) applying to iron ore railway wheels (railway wheels) exported to Australia from the People's Republic of China (China) and the French Republic (France) (collectively, the subject countries).[1]

The measures currently in place are in the form of a dumping duty notice for the subject countries. The measures, which were initially imposed on 16 July 2019, are due to expire on 16 July 2024 (the specified expiry day).[2]

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base their recommendations to the Minister for Industry and Science (the Minister).

The Commissioner's final recommendations to the Minister will be contained in a report due by 6 June 2024.

Interested parties should note that this SEF may not represent the final views of the Commissioner. The Commissioner invites interested parties to make submissions in response to the SEF (see chapter 1.5).

1.2 Proposed recommendations

Based on the evidence currently available, the Commissioner proposes to recommend that the Minister **declare**:

- in accordance with subsection 269ZHG(1)(b), that they decide to secure the continuation of the anti-dumping measures in relation to exports from China only.

Based on the evidence currently available, the Commissioner proposes to recommend that the Minister **determine**:

- pursuant to section 269ZHG(4)(a)(ii) that the dumping duty notice continues in force after 16 July 2024 but that, after that day, it ceases to apply to exporters of the goods from France
- in accordance with subsection 269ZHG(4)(a)(iii), that the dumping duty notice continues in force after 16 July 2024 but that, after that day, the notice have effect in relation to exporters in China as if the Minister had fixed different specified variable factors relevant to the determination of duty.

---

[1] For the purposes of this report, unless otherwise specified, any references to 'railway wheels' or 'the goods' are a reference to the iron ore carriage railway wheels subject to the anti-dumping measures. Further information in relation to the railway wheels subject to the measures is contained in chapter 3 of this SEF.

[2] Section 269TM of the *Customs Act 1901* (Cth) (the Act). All legislative references are to the Act unless otherwise specified. All references to regulations are to the *Customs (International Obligations) Regulation 2015* (Cth) (the Regulation) unless otherwise specified.

The proposed recommendations are made on the basis that, on the evidence currently available, the Commissioner is preliminarily:

- **satisfied** that the expiry of the measures applying to the goods exported to Australia from China would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent
- **not satisfied** that the expiry of the measures applying to the goods exported to Australia from France would lead, or be likely to lead, to a continuation of, or a recurrence of the dumping and the material injury that the measures are intended to prevent.

The Commissioner's proposed recommendation to the Minister concerning different variable factors for China will result in a change to the current effective rates of interim duties applying to the goods. Table 1 below details the current measures and the proposed measures.

Country	Exporter	Current (%)	Proposed Recommendation (%)
China	Baowu Group Masteel Rail Transit Materials Technology Company Limited (MTM)	17.5	13.3
	All other exporters[3]	17.5	13.3

Table 1: Current and proposed dumping margins

1.3 Conduct of the inquiry

On 14 August 2023, the Commissioner initiated this inquiry and established an inquiry period of 1 July 2022 to 30 June 2023 (the inquiry period). The Commissioner initiated this inquiry following consideration of an application from Commonwealth Steel Company Pty Ltd (Comsteel) to continue the measures.[4]

The commission is assisting the Commissioner to conduct the inquiry, pursuant to the commission's function specified in section 269SMD.

The interested parties identified by the commission in this inquiry are listed below.

- The sole Australian industry member is **Comsteel**.
- The sole Chinese exporter of the goods during the inquiry period is Baowu Group Masteel Rail Transit Materials Technology Co Ltd (**MTM**). MTM's parent entity, Maanshan Iron & Steel Co Ltd (**MIS**), previously exported the goods.
- The sole French exporter of the goods is MG-Valdunes SAS (**Valdunes**). Valdunes exported the goods during the original investigation period.[5]

[3] Besides MTM, the Commissioner did not identify any other Chinese entities that exported the goods to Australia in the inquiry period. The Commissioner has consequently preliminarily established a rate for 'all other exporters' at the same rate as established for the co-operating exporter, MTM.
[4] Electronic public record (EPR) for case 632 (EPR 632), document number 1.
[5] Investigation 466 (refer to EPR 466).

- The 4 end users of the railway wheels in the Australian market are BHP Iron Ore Pty Ltd (**BHP**), Pilbara Iron Company (**Rio Tinto**), Fortescue Mining Group (**FMG**) and Roy Hill Holdings Pty Ltd (**Roy Hill**). These end users either purchase the railway wheels from Comsteel, import the railway wheels or do a combination of both. There are no other intermediaries or importers involved in the purchase or importation of the goods.
- The interested party governments are the government of China (**GOC**) and France.

The Commissioner notified these interested parties of the initiation of this inquiry in Anti-Dumping Notice (ADN) 2023/048, published on 14 August 2023.[6] The exporters and importers of railway wheels from the subject countries were also invited by questionnaire to provide information relevant to the inquiry period. Comsteel was invited by questionnaire to provide further information relevant to the inquiry. The Commission also invited the GOC to provide a response to a government questionnaire.

Onsite verification visits were completed with BHP, Comsteel, MIS, MTM and Rio Tinto in relation to their questionnaire responses. The GOC declined to complete the government questionnaire, providing a submission to the inquiry instead. Valdunes provided a partially complete exporter questionnaire response.

The commission also contacted other end users of the goods, FMG and Roy Hill. Neither of these end users opted to meet with the commission.[7]

In preparing this SEF, the Commissioner has had regard to:

- the application seeking a continuation of the anti-dumping measures and the Australian industry questionnaire response from Comsteel
- importer questionnaire responses received from BHP and Rio Tinto
- exporter questionnaire responses received from MTM and Valdunes
- the supplementary questionnaire response received from MIS, the parent company of MTM
- submissions received within sufficient time to be considered prior to the publication of this SEF[8]
- further information obtained during verification visits to the Australian industry, the Chinese exporter MTM and its parent company MIS as well as importers
- other information as referenced in this SEF.

Further information on the conduct of this inquiry is included in chapter 2 of this SEF.

---

[6] EPR 632, document number 2.

[7] In the original investigation, the commission met with Roy Hill, and FMG participated in an importer verification after completing an importer questionnaire and relevant attachments.

[8] A submission was received from Rio Tinto on 26 March 2024 (EPR 632, document number 24). The Commissioner has had insufficient time to consider this submission as to do so would have prevented the timely placement of the SEF on the public record. This submission will be considered in the Final Report. All other submissions received prior to the publication of the SEF have been considered in preparation of this SEF.

1.4 Summary of key preliminary findings

The Commissioner's preliminary findings and conclusions in this SEF rely on the information available at this stage of the inquiry. The paragraphs below provide a summary of these findings, which are set out in further detail throughout the SEF.

1.4.1 The goods, like goods and the Australian industry (chapter 3)

The Commissioner preliminarily finds that locally produced railway wheels are 'like' to the goods the subject of the application. The Commissioner is satisfied that there is an Australian industry (solely Comsteel) producing those like goods.

1.4.2 Australian market (chapter 4)

During the inquiry period, the Australian railway wheel market for the goods subject to the measures was supplied locally by Comsteel and by imports from China.

There were no imports from France during the inquiry period.

1.4.3 Economic condition of the Australian industry (chapter 5)

The Commissioner assessed the economic condition of the Australian industry from 1 July 2017 to analyse trends in the market and for assessing potential injury factors.

The Commissioner found that the Australian industry's economic performance initially improved after the imposition of measures. This economic performance subsequently declined with observed periods of price suppression, price depression and falls in profits and profitability.

1.4.4 Dumping during the inquiry period (chapter 6)

The commission has assessed variable factors for the goods exported from China and has preliminarily determined that dumping occurred during the inquiry period. The dumping margins preliminarily assessed for China are set out below in Table 2.

Country	Exporter	Dumping margin (%)
China	Baowu Group Masteel Rail Transit Materials Technology Company Limited (MTM)	13.3
	All other exporters	13.3

Table 2: Dumping margins

The commission has also used this information to preliminarily determine that variable factors for China have changed.

There were no exports of railway wheels from France in the inquiry period. The commission has therefore not assessed the variable factors for France for the purpose of this inquiry.

1.4.5 Likelihood of dumping and material injury continuing or recurring (chapter 7)

China

The Commissioner preliminarily **is satisfied** that the expiry of the measures applying to the goods exported to Australia from China would lead, or would be likely to lead, to a recurrence of dumping and the material injury that the measures are intended to prevent.

This is based on the preliminary findings summarised below. These findings are discussed in depth in chapters 7.5 to 7.7 of this SEF.

Likelihood of Future Exports (chapter 7.5)

If the measures were to expire, it would likely lead to China continuing to export the goods to Australia because:

- China has been the dominant supplier to the Australian market since 2018, maintaining distribution links to 3 of the 4 mining companies that purchase the goods
- based on an assessment of the cooperating Chinese exporter's verified response to the exporter questionnaire, China maintains excess production capacity.

Likelihood of Dumping (chapter 7.6)

If the measures were to expire, it would likely lead to exports of the goods from China being dumped because the goods were dumped during the original investigation and were dumped during the inquiry period.

Likelihood of Material Injury (chapter 7.7)

If the measures were to expire, it would likely lead to the dumped exports from China causing material injury to the Australian industry in the form of reduced sales and market share, price depression and price suppression. The dumped exports will also cause reduced profit and profitability to the Australian industry because:

- the Australian market for railway wheels is highly concentrated, with one Australian industry supplier, one Chinese supplier and 4 purchasers during the inquiry period
- while railway wheels are produced to specification and the purchaser may consider a range of factors in the purchasing decision, price is a significant consideration
- dumped exports from China undercut the Australian industry's prices during the inquiry period
- dumping would continue to provide Chinese producers with a significant price advantage that would see the Australian industry suffer price injury should the Australian industry compete on price.

If the Australian industry is unable to compete on price, this would be likely to lead to reductions in sales volume and market share. The Australian industry would also suffer reduced profits and profitability, as well as other factors related to price and volume injury. These factors combined are indicative of material injury that the measures are intended to prevent.

France

Based on the evidence obtained and the analysis conducted in this inquiry, the Commissioner preliminarily **is not satisfied** that the expiry of the measures applying to the goods exported to Australia from France would lead, or would be likely to lead, to a recurrence of dumping and the material injury that the measures are intended to prevent.

Specifically, the Commissioner is not preliminarily satisfied that the expiry of the measures would be likely to lead to a recurrence of exports from France for the reasons outlined below. These findings are discussed in depth in chapter 7.5 of this SEF.

Reason 1

There have been no exports of the goods from France since 2018 and there is no evidence that distribution links or pre-approvals to supply the Australian market have been maintained since measures were imposed.

Pre-approval is required before a producer can supply the goods. The commission notes that the pre-approval process takes approximately 2 years to complete, making pre-approval a significant barrier to entry into the market.

The commission considers that any French supplier, including Valdunes, the only known manufacturer of the goods in France, would be required to complete this pre-approval process prior to being able to supply the Australian market.

Reason 2

Valdunes has recently entered insolvency administration which, combined with the factors detailed in reason 1 above, makes it unlikely that Australian purchasers, who are seeking timeliness and reliability of supply, would see France as an ongoing viable source of supply.

As a result of these findings, the Commissioner considers that exports from France to Australia are unlikely to recur in the future irrespective of whether measures cease to apply to France. Therefore, the Commissioner finds that the expiry of measures is not likely to lead to recurrence of dumping in the future and consequently, the Commissioner has not considered whether material injury is likely to recur if the measures on exports from France cease to apply.

1.4.6 Non-injurious price (chapter 8)

The Commissioner has preliminarily assessed that the non-injurious price (NIP) is not less than the normal value.

Accordingly, the NIP should not be the operative measure for exports from China and the Commissioner proposes recommending that measures be imposed on railway wheels exported to Australia from China at the full dumping margin.

1.4.7 Form of measures (chapter 9)

In relation to China, consistent with the findings in the original investigation, the commission considers the interim dumping duty (IDD) payable on railway wheels

exported from China should be calculated using the combination fixed and variable duty method.

1.5 Responding to this SEF

The SEF may not represent the Commissioner's final findings. The commission invites interested parties to make written submissions in response to this SEF for the Commissioner's consideration.

Interested parties who wish to make written submissions in response to this SEF must do so no by later than **17 April 2024**, which is within 20 days after the SEF being placed on the public record.[9]

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.[10]

Submissions may be lodged by email to investigations4@adcommission.gov.au.

Alternatively, interested parties may post submissions to:

Director, Investigation 4
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked as '**OFFICIAL: Sensitive**'. A non-confidential version of the submission, marked '**PUBLIC RECORD**', is required for the public record. A guide for making submissions is available on the commission's website.[11]

The EPR contains non-confidential submissions from interested parties, non-confidential versions of the commission's verification reports and other publicly available documents.

Interested parties should read this SEF in conjunction with the other documents on the EPR.

1.6 Final report to the Minister

The Commissioner must report to the Minister by no later than 6 June 2024.[12] The final report will contain the Commissioner's final recommendations regarding the continuation of the measures.

---

[9] Section 269ZHF(3)(a)(iv).
[10] Section 269ZHF(4).
[11] A guide for making submissions is available at this Anti-Dumping Commission webpage: *How to lodge a submission in response to an anti-dumping or countervailing case*.
[12] In accordance with section 269ZHF(1), the Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as allowed.

2 BACKGROUND

2.1 Legislative framework

The procedures to be followed by the Commissioner in an application for the continuation of measures are set out in division 6A of part XVB of the Act.

2.1.1 Legislative test

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

2.1.2 Statement of essential facts (SEF)

Section 269ZHE(1) requires the Commissioner to publish a statement of essential facts on which they propose to base their recommendations to the Minister about the continuation of the measures. This is referred to as the SEF.

Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to have regard to the application and any submissions received within 37 days of the initiation of the inquiry. Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner following the 37-day period if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the EPR.

The Commissioner may also have regard to any other matters they consider relevant.

2.1.3 Final report

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice:

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

2.2 Application and initiation

On 16 May 2023, the Commissioner published a notice[13] on the commission's website inviting 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,[14] or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures.[15]

On 14 July 2023, Comsteel lodged an application for the continuation of the measures applying to the goods exported to Australia from China and France.[16] Comsteel is a person whose application under section 269TB resulted in the measures and is a person representing the whole of the Australian industry producing like goods covered by the measures.[17]

The Commissioner was satisfied that:

- the application complied with section 269ZHC (content and lodgement requirements),[18] and
- there appeared to be reasonable grounds for asserting that the expiry of the 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.[19]

The Commissioner therefore decided not to reject the application and published ADN No 2023/048 initiating the present inquiry on 14 August 2023.[20]

2.2.1 Submission from the European Commission regarding application

In response to the initiation of the investigation, the European Commission submitted that the non-confidential version of Comsteel's application did not disclose sufficient information to enable a reasonable understanding of the substance of its claims.[21] Specifically, the European Commission referenced the lack of information regarding import volumes, import prices and data relating to the situation of the domestic industry.

The commission is satisfied that the application from Comsteel met the content and lodgement requirements under section 269ZHC. Detailed summaries of the information identified by the European Commission have been included in the Australian industry

---

[13] ADN No 2023/027. Notice published in accordance with section 269ZHB(1).
[14] Section 269ZHB(1)(b)(i).
[15] Section 269ZHB(1)(b)(ii).
[16] EPR 632, document number 1. Application made under section 269ZHC.
[17] Comsteel, being the original applicant for the measures and the sole manufacturer of the goods in Australia, satisfies both requirements of Section 269ZHB(1)(b).
[18] Section 269ZHD(2)(a).
[19] Section 269ZHD(2)(b).
[20] EPR 632, document number 2.
[21] EPR 632, document number 7.

verification report.[22] This SEF furthermore contains the analysis identified by the European Commission as being relevant to a continuation inquiry.

2.3 Current anti-dumping measures

The measures were initially imposed by public notice on 16 July 2019 by the relevant Minister following the original investigation (Investigation 466). The findings of that original investigation are detailed in *Anti-Dumping Commission Report No 466* (REP 466).[23]

Table 3 below summarises the measures currently applying to exports of the goods to Australia from the subject countries.[24]

Country	Exporter	Dumping notice	
		Method	Effective IDD rate
China	Maanshan Iron & Steel Co Ltd (MIS)	Combination	17.4%
	All other exporters	Combination	17.4%
France	MG-Valdunes SAS (Valdunes)	Combination	37.2%
	All other exporters	Combination	37.2%

Table 3: Current measures applying to exports of the goods

Further detail about these measures can be found on the Dumping Commodity Register (DCR) on the commission's website.[25]

2.3.1 Other cases

Since Investigation 466, there have been no further cases conducted by the commission in relation to the measures applying to railway wheels.

2.4 Conduct of the inquiry

As noted above, the inquiry period for this inquiry is 1 July 2022 to 30 June 2023. The commission invited exporters and importers of railway wheels to provide information relevant to this period.

To analyse the performance of the Australian industry in the years before and after measures were imposed, the commission has examined the period from 1 July 2017 (YE June 2018) to 30 June 2023 (YE June 2023).

[22] EPR 632, document number 20.
[23] EPR 466, document number 89.
[24] EPR 466, document number 90.
[25] The DCR is available at this link.

2.4.1 Australian industry – Questionnaires and verification

The Commissioner is satisfied that the applicant, Comsteel, is the sole member of the Australian industry producing like goods to the goods the subject of this inquiry.[26]

On initiation of this inquiry, the commission forwarded an Australian industry questionnaire to Comsteel. A public version of Comsteel's response is available on the EPR.[27]

The commission completed a verification visit to Comsteel's premises in September 2023. The verification report is available on the EPR.[28]

2.4.2 Importers - Questionnaires and verification

The commission identified importers from the Australian Border Force (ABF) import database that imported the goods during the inquiry period. The commission sent questionnaires to BHP and Rio Tinto, the identified importers.[29]

The commission received responses to the importer questionnaire from BHP and Rio Tinto. The commission subsequently verified the information from both companies. The commission's verification reports for these visits are available on the EPR.[30]

2.4.3 Exporters - Questionnaires and verification

The commission identified MTM in the ABF import database as the only supplier of the goods from China during the inquiry period.

MTM's production facilities were previously held within the parent company, MIS. MIS was identified as the exporter in the original investigation (referred to in REP 466 as 'Masteel'). These changes resulted from a corporate restructure in 2019.

For the purposes of this inquiry, MTM has been identified as the exporter of the goods. It is also noted that MIS sold steel billet and provided other goods and/or services to MTM as its parent entity during the inquiry period.

Valdunes, who exported the goods from France during the original investigation period, did not export during the inquiry period for this inquiry, and has not exported the goods to Australia since 2018.

The commission sent exporter questionnaires to both MTM and Valdunes in undertaking its inquiry.

---

[26] See chapter 3 of this SEF.
[27] EPR 632, document number 3.
[28] EPR 632, document number 20.
[29] In addition to sending questionaries to the above identified importers, the commission also placed a copy of the importer questionnaire on the commission's website.
[30] EPR 632, document numbers 21, 23.

MTM

On 26 October 2023, MTM provided a response to the exporter questionnaire (REQ). The non-confidential version of the REQ is available on the EPR.[31] On 21 November 2023, the commission subsequently sent MTM's parent entity, MIS, a supplementary questionnaire. The public record version of MIS's response to the supplementary questionnaire is on the EPR.[32]

On 17 January 2023, the commission completed an onsite verification visit to both MIS and MTM. The verification reports from these visits were provided to MTM and MIS at the time of publishing this SEF. These verification reports for these visits will be published on the EPR following review by MIS and MTM.[33]

Valdunes

On 21 September 2023, the commission received a REQ from Valdunes. The commission identified multiple deficiencies in the REQ, including not providing a public record version of the questionnaire response. On 13 October 2023, the commission notified Valdunes of the deficiencies and requested that it rectify the deficiencies by 20 October 2023.[34] Valdunes' further response to the questionnaire was assessed as remaining deficient.[35] Consideration of Valdunes response is further discussed in chapter 6.1.

Valdunes stated in a submission that it had not made a sale of the railway wheels subject to the measures either domestically in France, to Australia or to a third country, since February 2018.[36] The commission's examination of the ABF import database confirmed that there had been no imports of the goods from France since 2018.

2.4.4 Government - Questionnaires and verification

On 14 August 2023, the commission wrote to the GOC and the government of France in relation the initiation of this inquiry. The commission further invited the GOC to complete a questionnaire regarding claims from Australian industry that a particular market situation existed in respect of like goods in China. The GOC did not provide response to the questionnaire but provided a submission in relation to the claimed particular market situation.[37]

The European Commission provided a submission in response to the initiation of the inquiry and the measures applying to France.[38]

---

[31] EPR 632, document number 9. Further clarification of the public record version was provided in a submission (EPR 632, document number 18).
[32] EPR 632, document number 17.
[33] Consistent with the commission's standard practices, Australian industry members, importers and exporters are provided with an opportunity to review their respective verification reports prior to publication on the EPR. These reports will be published after the publication of the SEF.
[34] Valdunes sought and was granted an extension to provide the further response by 20 November 2023
[35] A further short period of time was provided to Valdunes to rectify the remaining deficiencies in the further response. No further response was received from Valdunes.
[36] EPR 632, document number 4.
[37] EPR 632, document number 10.
[38] EPR 632, document number 7.

2.4.5 Submissions received from interested parties

The commission received the submissions listed in Table 4 before publishing this SEF. Non-confidential versions of these submissions are available on the EPR.

EPR document number	Interested party and topic of submission	Date published
4	Valdunes – Submission in response to initiation	22/09/2023
6	Rio Tinto – Submission in response to initiation	02/10/2023
7	European Commission – Submission in response to initiation	12/10/2023
8	BHP – Submission in response to initiation	18/10/2023
10	GOC – Submission in response to initiation	30/10/2023
11	Comsteel – Submission in response to Rio Tinto's submission	14/11/2023
13	Comsteel – Submission in response to BHP's submission	20/11/2023
14	Comsteel – Submission in response to GOC submission	22/11/2023
15	MTM – Clarification of Section C from exporter questionnaire	14/12/2023
16	BHP – Updated BHP submission dated 13 October 2023	18/12/2023
18	Comsteel – Exporter briefing revised version[39]	05/01//2024
19	Comsteel – Submission in relation to claimed PMS in China	05/01/2024
24	Rio Tinto – Submission in relation to inquiry	26/03/2024

Table 4: Submissions received

Comsteel submitted that BHP's submission published on 18 October 2023 contained insufficient summaries of confidential information to enable Comsteel to obtain an understanding of the substance of BHP's claims.[40] BHP subsequently provided a revised submission which contained further summaries of the redacted information. The commission placed the revised BHP submission on the EPR.[41]

The commission has had insufficient time to consider the submission received from Rio Tinto on 26 March 2024, as to do so would have prevented the timely placement of the SEF on the public record. This submission will be considered in the preparation of the final report to the Minister. The Commissioner has had regard to all the other submissions in Table 4 in making their preliminary findings outlined in this SEF. The submissions are addressed throughout this SEF.

[39] Comsteel withdrew its initial exporter briefing submission and proved a revised submission. The withdrawn submission has not been considered in this SEF. The commission also requested Comsteel to provide a more detailed summary of certain confidential information in the public record version of this submission. Comsteel provided this further version which replaced the earlier version published on the EPR.
[40] EPR 632, document number 13.
[41] EPR 632, document number 16, 8.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Preliminary finding

The Commissioner finds that locally manufactured railway wheels are like goods to the goods subject to the measures. The Commissioner finds that there is an Australian industry, consisting of Comsteel, producing like goods and that the like goods are wholly produced in Australia.

3.2 Legislative framework

To be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping and the material injury that the measures are intended to prevent, the Commissioner must firstly determine whether the goods produced by the Australian industry are 'like' to the imported goods.

Section 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 definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiry of the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent. The commission's framework for assessing like goods is outlined in chapter 2 of the *Dumping and Subsidy Manual* (the Manual).[42]

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other. The Commissioner considers all of these factors:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

The Commissioner must also consider whether the Australian industry manufactures 'like' goods in Australia. Section 269T(2) specifies that for goods (other than unmanufactured raw products) to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

The analysis below in this chapter establishes the scope of the commission's inquiry.

---

[42] Department of Industry, Science and Resources (DISR), *Dumping and subsidy manual*, Anti-Dumping Commission, DISR, Australian government, 8 December 2021(the Manual).

3.3 The goods subject to the measures

The goods subject to the anti-dumping measures in this inquiry are.[43]

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

At the time of the original investigation, the applicant 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.*
>
> *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.*

[43] As defined in ADN 2019/30 (Findings in relation to a dumping investigation for Investigation No. 466). EPR 432, document number 90.

3.3.1 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheading of schedule 3 to the *Customs Tariff Act 1995* (Cth):[44]

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	Wheels, whether or not fitted with axles

Table 5: Tariff classification of the goods

3.4 Like goods

3.4.1 Submissions

BHP

BHP submitted that the railway wheels produced by Comsteel were not like goods.[45] Specifically, BHP claimed that Comsteel's railway wheels:

- did not meet BHP's revised specifications
- were materially inferior
- had safety concerns which were tied to the quality of Comsteel's railway wheels and incidences of Comsteel's railway wheels cracking.

BHP further advised it had not purchased railway wheels from Comsteel since 2019, but was continuing to use its remaining stock of Comsteel railway wheels on its network with additional monitoring. BHP also noted that there had been no further incidents involving Comsteel's railway wheels. However, BHP claimed this was due to the additional controls implemented by BHP to manage the safety risks.

During an importer verification in November 2023, BHP made the points summarised below.

- None of the Comsteel wheels previously purchased were produced in accordance with its revised 2019 40 MT railway wheel specifications (which requires higher steel cleanliness). Whilst it had not tested Comsteel's previously supplied railway wheels against this revised standard, BHP considered it likely that they would not meet the standard.
- If BHP were to obtain iron ore railway wheels from Comsteel in the future, Comsteel would be required to undergo extensive testing (laboratory and field performance), as well as a trialling period (as required by all prospective suppliers

[44] 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.
[45] EPR 632, document number 16, 8.

of the goods) to ensure compliance with the new specifications. The specifications would be the same as those currently applying to MTM or any other supplier.

- Due to the quality issues, Comsteel railway wheels require additional monitoring and potentially have a shorter lifespan than the railway wheels imported from MTM. This additional monitoring and shorter lifespan also added to the operational cost of using Comsteel's railway wheels.
- The lower quality of Comsteel's railway wheels increased the operational risks for BHP. Cracking led to a higher risk of catastrophic failure of a railway wheel, which could lead to damage to BHP's train network infrastructure, third party property damage, injury and/or death to its workers and the general public. Catastrophic failures could also interrupt BHP's mining operations and the export of iron ore.
- There had not been the same quality issues with the railway wheels supplied by MTM.
- There were differences between the Australian industry's production process and overseas producers, including:
    - overseas producers have higher levels of automation in testing
    - each overseas producer has its own unique aspects of their production processes.

BHP's claims are considered below in the preliminary like goods assessment.

Comsteel

The commission notes that Comsteel disputes BHP's claim. Comsteel maintained during the original investigation and in the Australian industry verification for this inquiry that it was able to manufacture railway wheels which met the specifications of each of the mining companies, including BHP.

3.4.2 Preliminary like goods assessment

As specified earlier, where the locally produced goods and the goods subject to the measures are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other.

For the purposes of the preliminary findings outlined below, the commission has relied on submissions received in the course of this inquiry, in addition to information obtained during verification visits and the commission's understanding of the goods from the original investigation.[46]

The Commissioner is preliminarily satisfied that the domestically produced goods are like to the goods under consideration because the below mentioned characteristics of each closely resemble each other.[47]

Physical likeness

The primary physical characteristics of the railway wheels that Comsteel produces are similar to the primary physical characteristics of the railway wheels goods subject to the

[46] See EPR 466, document number 23.
[47] As defined in section 269T(1).

measures. The commission notes that there are minor variations in the technical specifications of the goods between each of the mining companies.

The original investigation considered BHP's claims regarding the quality of Comsteel's railway wheels in the context of the like goods assessment. REP 466 found that, notwithstanding claims relating to quality, the commission was satisfied that the railway wheels manufactured by Comsteel met the definition of like goods.

The issues raised by BHP in this inquiry regarding like goods are largely similar to those raised in the original investigation and considered in REP 466. In addition, BHP has claimed that it considers Comsteel's railway wheels would not meet its revised standards for 40 MT railway wheels. In examining this claim, the commission notes that Comsteel's wheels have not been tested against this revised standard. BHP did not specify how it concluded that Comsteel could not produce railway wheels meeting BHP's revised specifications. Further, as noted above, Comsteel maintains that it is able to meet the current specifications of each of the mining companies, including BHP. As such, the Commissioner considers that there is a lack of objective evidence which verifies BHP's claim on this point. Having regard to the above factors, the Commissioner considers that railway wheels produced by Comsteel are physically alike to the goods the subject of the measures (consistent with the finding in the original investigation). Whilst BHP has claimed quality differences in relation Comsteel's railway wheels compared to MTM's railway wheels, the commission considers that both closely resemble each other.

Issues in relation to quality were also raised separately by Rio Tinto. Both BHP's and Rio Tinto's claims regarding quality are considered in the commission's assessment of the likelihood of material injury in the absence of measures in chapter 7.7 of this SEF.

Commercial likeness

In the Australian market, the railway wheels that Comsteel produces compete directly and indirectly with the goods subject to the measures. Consequently, the commission considers the locally produced goods to be commercially like to the goods the subject of the measures.

Functional likeness

The railway wheels Comsteel produces are interchangeable or substitutable with the goods subject to the measures. Comsteel's railway wheels and imported railway wheels are sold to the same customers and for identical end uses. It is noted that three of the mining companies currently use both Comsteel and imported railway wheels on their respective railway networks.

While BHP has submitted that Comsteel's wheels require additional monitoring due to quality issues, as noted above, BHP continues to use its remaining stock of Comsteel railway wheels on its network. Consequently, the commission considers that the locally produced goods and the goods subject to the measures perform the same function and are used in the same end-use applications.

Production likeness

The commission considers that the locally produced goods and the goods the subject of the measures are produced using similar production processes and similar raw material inputs to the goods the subject of the measures. The commission notes that, whilst the

specific production processes and technology used by manufacturers may vary, overall the production processes used by Comsteel and exporters are alike.

3.5 Australian industry – domestic production

3.5.1 Production process

Comsteel manufactures grinding media and various types of railway wheels, axles and wheel sets at its site in Waratah, a suburb of Newcastle in New South Wales. Comsteel uses scrap metal as the main raw material to produce billet and ingot in its electric arc furnace (EAF). To produce ingot for railway wheels, certain alloys are added to the scrap steel to achieve the desired metallurgy. The molten steel from the EAF undergoes a vacuum degassing process before being poured into ingot moulds.

The ingots produced in the steelmaking process are sawn into ‘cheeses’ and then heated in a rotary furnace. The cheeses are pre-formed in a slab press and then forged in the forging press. The wheel is then rolled using edge and pressure rollers before being ‘dished’ and centre hole-punched in a final press.

The wheel is then heated, rim quenched and then tempered in a tempering furnace. After tempering, the wheel is shot blasted, tested and machined to its final specifications.

The wheel undergoes various tests for surface defects and internal inclusion defects before being stamped and packaged for shipment.

The commission concludes that the goods can be taken to have been wholly manufactured in Australia and that they are, therefore, produced in Australia.

3.5.2 Conclusion – Australian industry

Based on the information obtained from the verification visit and the previous investigation, the Commissioner is satisfied that:

- Comsteel manufactures like goods
- the like goods were wholly manufactured in Australia and
- there is an Australian industry which produces like goods in Australia.

4 AUSTRALIAN MARKET

4.1 Preliminary finding

The Commissioner preliminarily finds that Comsteel and exporters from China supplied the market for the goods in Australia during the inquiry period.

In assessing the characteristics of the Australian market, the commission has preliminarily found that:

- during the inquiry period the Australian market comprised 4 end use customers that were supplied by either the Australian industry or imports from China, or a combination of both
- locally produced and imported railway wheels are generally supplied directly by the manufacturer to the end user
- locally produced and imported railway wheels can be used interchangeably on a customer's iron ore carriage, and
- purchases of the railway wheels have traditionally been made by end users from pre-qualified suppliers through contract or tender arrangements.

The Commissioner preliminarily finds that no exporters from France supplied the market for the goods in Australia during the inquiry period.

4.2 Approach to analysis

The analysis in this chapter is based on verified information from Comsteel, importers (BHP and Rio Tinto) and an exporter (MTM), as well as data captured in the ABF import database.

4.3 Market segmentation and end uses

Railway wheels subject to the measures are specially designed to be used on iron ore railway carriages which run on proprietary railways owned by iron ore mining companies in the Pilbara region of Western Australia. The end user customers of the carriages are:

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

Specifications for railway wheels differ slightly between the Australian customers to reflect differences in railway track designs and load requirements of the ore carriages. There are no market substitutes for railway wheels in Australia.

The integrity of the wheels is important for the safe and efficient operation of the railways. Wheel failures have the potential to cause train derailments. While the railway lines on which the wheels operate are private, they cross over public roads and enter other populated areas.

4.4 Distribution arrangements

In the Australian market there are no resellers, distributors or other intermediaries involved in the supply of railway wheels to the end user customers.

Locally produced and imported railway wheels are generally supplied directly by the manufacturer to the end user. On occasion, wheels could be supplied to a maintenance firm contracted to complete maintenance on the iron ore carriages. Where delivery is made to the maintenance firm, the supply is typically based on the supply contract with the mining company.

4.5 Supply

Supply of the railway wheels used by the mining companies are made by pre-qualified suppliers. The pre-qualification process will vary depending on the supplier and mining company. The pre-qualification process may take at least 2 years to complete.

The locally produced and imported railway wheels can generally be used interchangeably on a customer's iron ore carriage. Mining companies may seek to obtain supply from multiple sources to ensure continuity of supply.

Typically mining customers and suppliers will co-ordinate delivery dates ahead of time. This enables miners to meet their maintenance schedules and suppliers to schedule production of the railway wheels at their manufacturing facilities.

MTM claimed that Comsteel was a dominant monopoly supplier in the Australian market and that this effectively constituted a barrier to entry into the Australian market.[48] The GOC, Rio Tinto and BHP also claimed that Comsteel held a monopolistic market position or had monopolistic market power.[49] The commission notes that Comsteel has accounted for approximately 30% of total Australian market sales since the year beginning July 2021. The remaining 70% of sales were supplied by imports, of which almost all originated from MTM in China.[50] In other words, Comsteel is a minority supplier of the goods in Australia, is not a monopoly supplier and does not otherwise appear to operate monopolistically. Evidence indicates buyers and sellers in the market engage in competitive negotiations. The commission considers that the evidence suggests any significant barriers to entry in the Australian market are more likely attributable to the supplier pre-approval requirements and not to any market power held by Comsteel.

4.6 Demand

Demand is driven by the miners' requirements in relation to the transport of iron ore from their mine sites. The factors that may influence demand in this regard are:

- demand for iron ore
- opening or closing of mine sites
- the life cycle of railway wheels

[48] EPR 632, document number 9.
[49] EPR 632, document numbers 6, 8, 10.
[50] A small volume was imported from Italy during early 2022 with the remainder imported from China.

- programmed replacement programs by miners.

The commission provides more details regarding these factors below.

Opening or closing of mine sites

Opening of new mines will typically result in greater train movements transporting iron ore and this requires additional carriages. Closing of mines has the opposite effect on the demand for railway wheels if the closed site is not directly replaced by a new mine site.

The life cycle of railway wheels

Railway wheels have a life cycle of approximately 8 to 12 years and are wearable components of the ore carriage. Additional wear and tear can lead to replacement before the end of the usual life cycle. Railway wheels may also have an extended life span where wear and tear is less than estimated. Operating parameters of the mining companies can influence these differing lifespans.

Ore carriages have a longer life span and are replaced less frequently. New ore carriages can be imported with or without railway wheels attached. Railway wheels attached to an imported ore carriage are not considered to be like goods. Comsteel advised that it seeks to supply the railway wheels for new ore carriages, including those imported from overseas.[51] The volume of ore carriages imported each year is irregular and significantly fluctuates. Over the period analysed the railway wheels installed on imported ore carriages reflected, on an estimated basis, approximately 12% of railway wheels.[52] The remaining 88% of railway wheels were separately either supplied by the Australian industry or imported.

Programmed replacement programs by miners

Miners will typically have a maintenance program, which includes end of life wheel replacement. This program will influence placement of orders.

4.7 Market pricing

Purchases of the railway wheels have traditionally been made by end users from pre-qualified suppliers through contract or tender arrangements.

Supply arrangements typically establish pricing. These agreements may also specify supply quantities for a fixed period against which periodic orders are made. Contracts will usually include price rise and fall provisions based on the initial price negotiated in the contract. Comsteel claimed that it is required to compete with import prices when negotiating its prices with the mining companies. Prices are further considered in chapter 7.7 of this SEF.

Delivery terms are typically to specified storage or workshop facilities either in Perth or the Pilbara region.

---

[51] EPR 632, document number 20.

[52] This assessment is based on 8 railway wheels being required for each ore carriage. Data in relation to the importation of railway carriages was obtained from ABF import data and analysed to estimate the volume of ore carriages imported. Import data from 1 January 2018 until December 2023 was analysed.

4.8 Market size

The commission has estimated the size of the Australian market for railway wheels using the domestic sales data from Comsteel and data sourced from the ABF import database. The information sourced from the ABF import database was determined using the relevant tariff subheadings and statistical codes for railway wheels. The commission further filtered the data to remove imports that the commission identified as not the goods.[53]

Figure 1 below shows the commission's estimate of the annual volume of railway wheels sold in the Australian market since 1 July 2013.

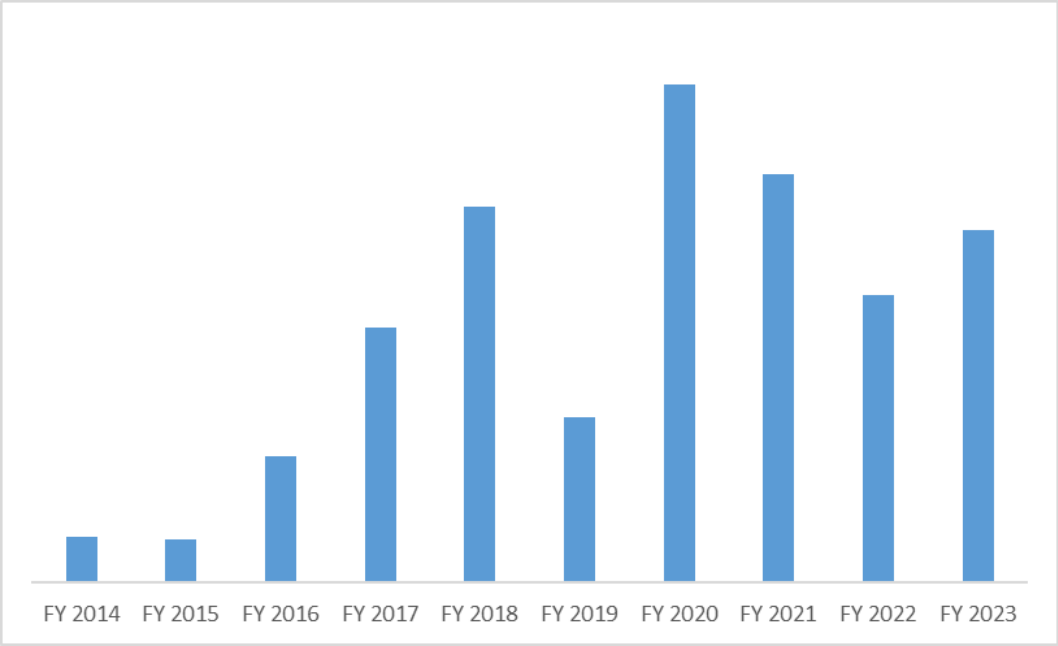

Figure 1: Size of the Australian market for railway wheels (number of wheels)

Confidential Attachment 1 contains the commission's Australian market analysis.

4.9 Future demand for railway wheels

As noted earlier, demand for railway wheels is aligned to the demand for iron ore, the opening or closing of mine sites and the life cycle of railway wheels. The commission examined each of these factors in assessing the likely future demand for railway wheels.

Having considered these factors, the commission's overall assessment is that there will be ongoing future demand for railway wheels. In aggregate, the commission anticipates that there will not be any significant future fluctuations in the demand for railway wheels until at least the end of 2025. The basis of this assessment is detailed below.

[53] To identify relevant imports, the commission examined the ABF import data to identify characteristics relevant to the goods. This included examining the goods description, the value of the importation, the importer, the port of arrival and any declarations made in relation to any claimed exemptions from dumping duty based on the goods description.

Demand for iron ore

BHP submitted that, in relation to the demand for iron ore, the Chinese demand for steel is likely to continue to grow in non-construction steel intensive industries and that Chinese demand is showing signs of stability or increasing demand.[54] The commission also notes that the Department of Industry, Science and Resources' *Resources and Energy Quarterly: December 2023* report[55] identified continuing growth in the demand for iron ore between 2023 and June 2025. Based on this information, the commission considers that there will continuing growth in the demand for iron ore from Australian mine sites.

Mining site closures and openings

The commission's analysis indicates that a range of future mine sites are being considered or are in the process of being developed. This includes a range of previously mothballed projects.[56]

Life cycle of railway wheels

The commission obtained information on anticipated future requirements for railway wheels during verification meetings.[57] This information indicates that there will be an ongoing requirement for new railway wheels as part of each mining company's maintenance programs.

---

[54] EPR 632, document number 16, 8.

[55] DISR, *Resources and Energy Quarterly: December 2023*, Office of the Chief Economist, DISR, Australian Government, 18 December 2023, accessed 25 March 2024.

[56] GlobalData, *Iron ore production in Australia and major projects*, Mining Technology website, 23 March 2023, accessed 25 March 2024.

[57] EPR 632, Document numbers 20, 21, 23.

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Preliminary finding

The commission preliminarily finds that the Australian industry's economic condition exhibited mixed results during the period of 1 July 2017 (YE June 2018) to 30 June 2023 (YE June 2023) (the period of analysis). Following the imposition of the measures in 2018, the Australian industry experienced increasing sales volumes and revenue. Despite increased sales volume and revenue, the increases in unit cost to make and sell (CTMS) were higher than unit selling prices to the extent that the Australian industry's profits and profitability were negative for YE June 2022 and YE June 2023.

The change in performance in the last two years demonstrates renewed vulnerability of the Australian industry to exports, in terms of market share. The Commissioner preliminarily finds that the Australian industry continues to be susceptible to competition from imported goods in the Australian market.

5.2 Approach to analysis

This chapter considers the economic condition of the Australian industry since the measures were imposed. This examination provides the basis for the commission's analysis in chapter 7 of whether material injury is likely to continue or recur.

The commission has assessed the economic condition for the period from YE June 2018 to YE June 2023, using the verified information provided by Comsteel in this inquiry and the original investigation, and data from the ABF import database.

5.3 Findings in the original investigation

In Report 466, the commission found Comsteel had suffered injury in the following forms:

- loss of sales volume
- loss of market share
- price suppression
- reduced profits
- reduced profitability
- reduced return on investment
- reduced capacity utilisation
- reduced employment number
- reduced revenue
- reduced production volumes.

5.4 Volume effects

5.4.1 Sales volume

Figure 2 below charts Comsteel's sales volume across the analysis period.

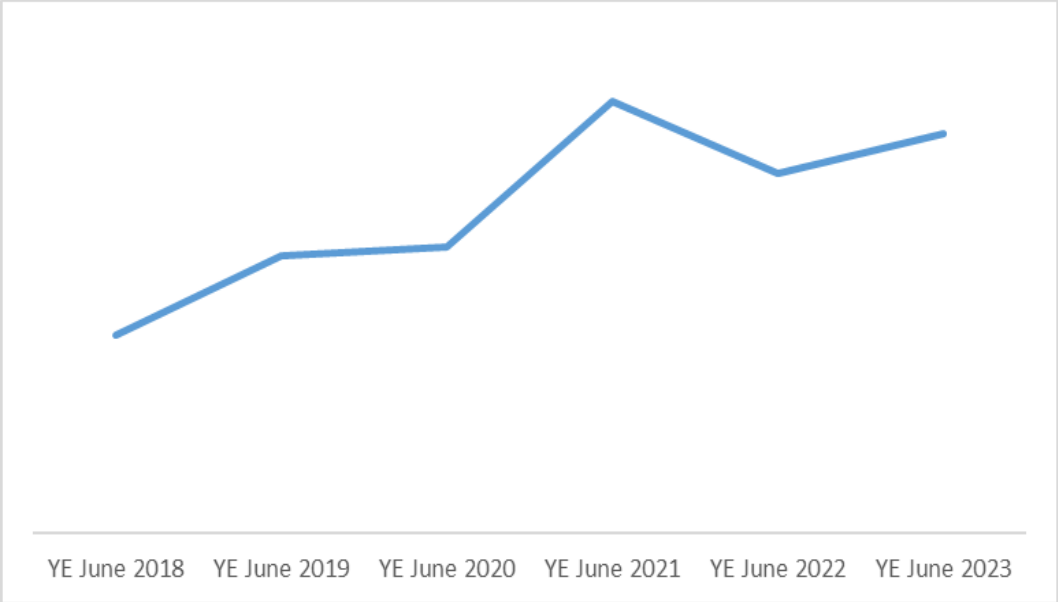

Figure 2: Sales volume (unit: wheels)

The chart indicates that Comstеel's sales volumes have increased since the imposition of measures. Whilst decreasing in the YE June 2022, Comsteel's sales volume partially recovered in the YE June 2023. Even though not as high as the peak during the analysis period, the sales volume in YE June 2023 was still higher than in the YE June 2018.

5.4.2 Market share

Figure 3 below charts Comsteel's market share across the analysis period:

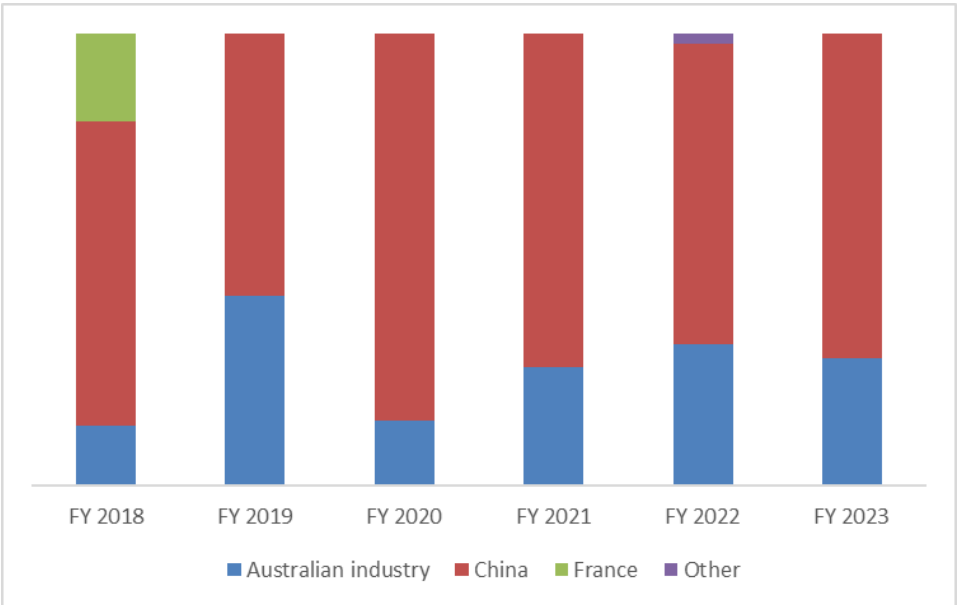

Figure 3: Australian railway wheels market (% market share by volume [unit: wheels])[58]

[58] To identify relevant imports, the commission examined the ABF import data to identify characteristics relevant to the goods. This included examining the goods description, the value of the importation, the importer, the port of arrival and any declarations made in relation to an exemption from dumping duty based on the goods description.

The chart indicates that, since the imposition of measures:

- exports from China have continued to supply the Australian market – whilst the share of the market has fluctuated, Chinese exporters have consistently been the largest supplier in the market
- exports from France have ceased supplying the Australian market
- the Australian industry's share of the market has fluctuated – the Australian industry has, on average, supplied approximately 30% of the market since the imposition of measures
- there has only been a small volume of imports from the Italian Republic (Italy), a non-subject country, in early 2022 (before the start of the inquiry period).

5.4.3 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when a company is prevented from increasing its prices, which otherwise would have occurred. For instance, an indicator of price suppression may be where the margin between prices and costs reduces. This reduction in the margin is indicative of the supplier not being able to pass on increased costs in its prices.

Figure 4 below charts Comsteel's unit selling price and unit CTMS for the analysis period.

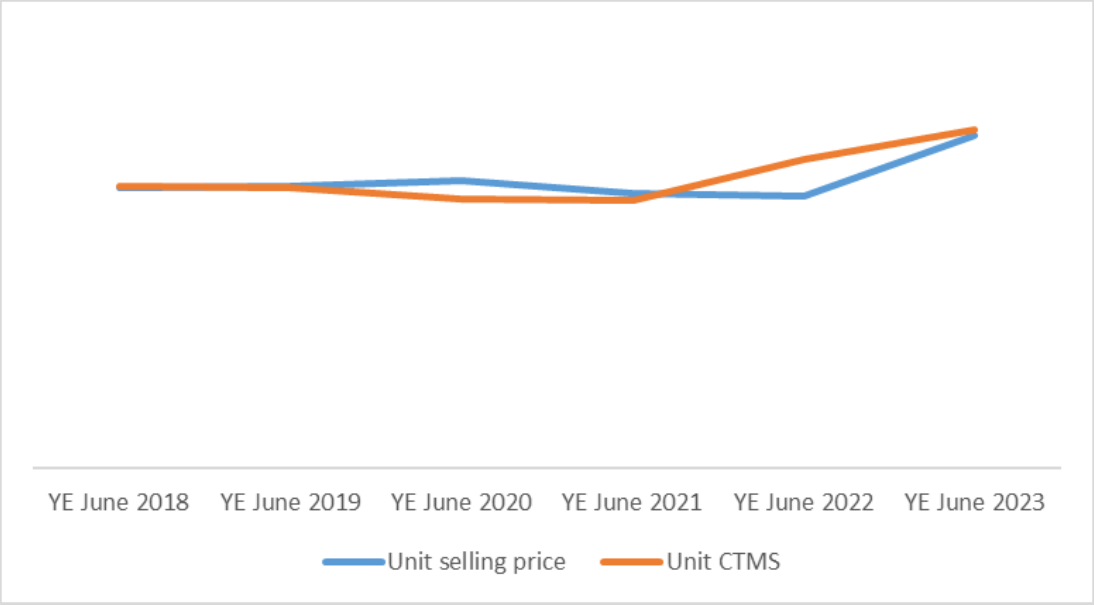

Figure 4: Unit CTMS and price (per wheel)

This chart indicates that:

- unit CTMS declined between YE June 2018 and YE June 2021
  - there was a marginal decline in YE June 2019, a greater decline in YE June 2020 and a further marginal decline in YE June 2021
  - for the same period unit prices increased between YE June 2018 and YE June 2020, before declining in YE June 2021
- in YE June 2022, unit CTMS increased, while unit prices further declined
- in YE June 2023, unit CTMS and unit price both materially increased.

Based on the available information, the Commissioner preliminarily finds that Comsteel experienced price depression in YE June 2021 and price suppression in YE June 2022. Whilst Comsteel was able to increase prices in the YE June 2023, the increase was insufficient to fully recover its CTMS in the same period.

5.5 Profit and profitability

Figure 5 charts Comsteel's profit and profitability as a percentage of revenue over the analysis period.

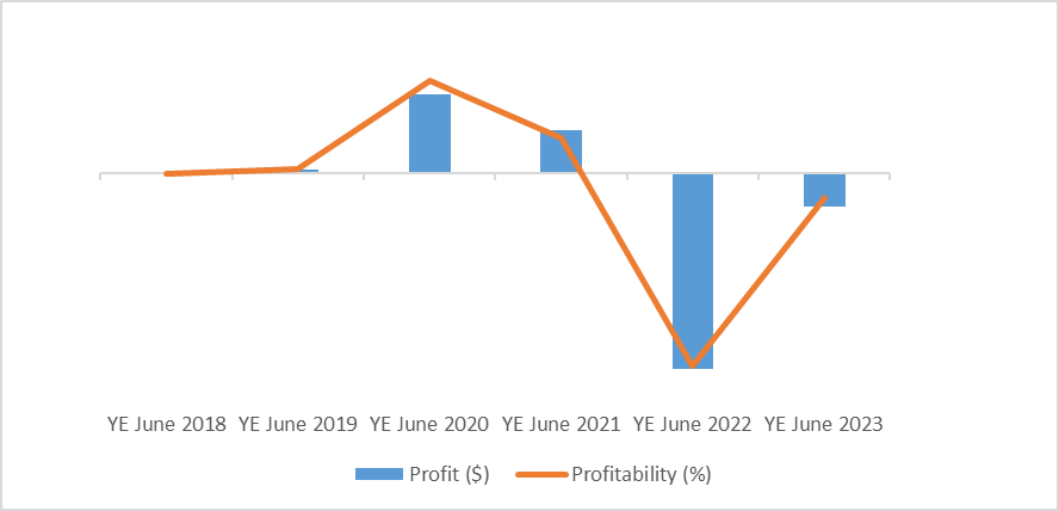

Figure 5: Profit and profitability

This chart indicates that, after measures were imposed, Comsteel initially experienced an improvement in profit and profitability. After peaking in YE June 2020, profit and profitability declined. Negative profit and profitability occurred in both YE June 2022 and 2023.

5.6 Other economic factors

5.6.1 Assets

Figure 6 below depicts the total value of Comsteel's assets, some of which are used in the production of like goods for the analysis period.

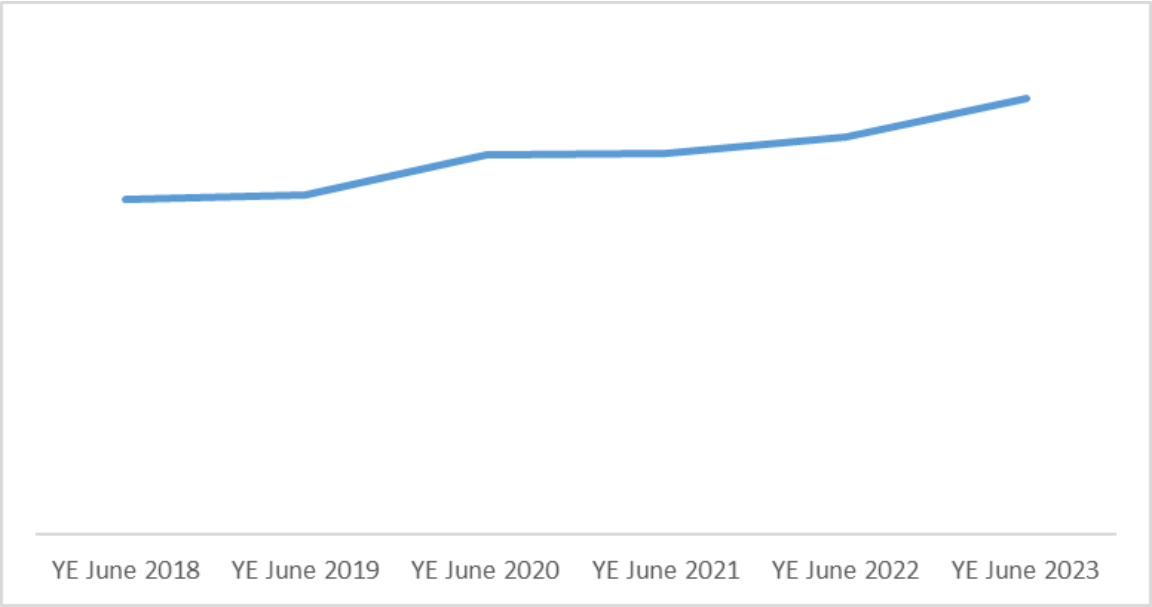

Figure 6: Assets (AUD)

Figure 6 indicates that Comsteel's total value of assets, some of which are used in the production of like goods, increased between YE June 2018 and YE June 2023.

5.6.2 Production volumes

Figure 7 below depicts Comsteel's production volumes over the analysis period.

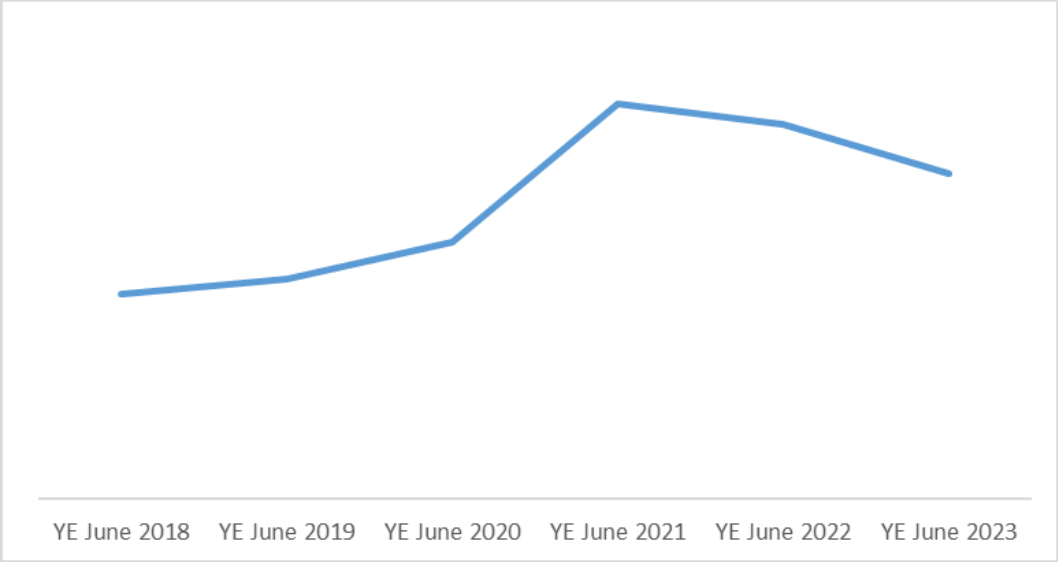

Figure 7: Production volume (unit: wheels)

Figure 7 indicates that Comsteel's production volumes increased from YE June 2018 to YE June 2021 before declining in both YE June 2022 and YE June 2023.

5.6.3 Return on investment

Figure 8 below depicts Comsteel's return on investment (ROI) over the analysis period.

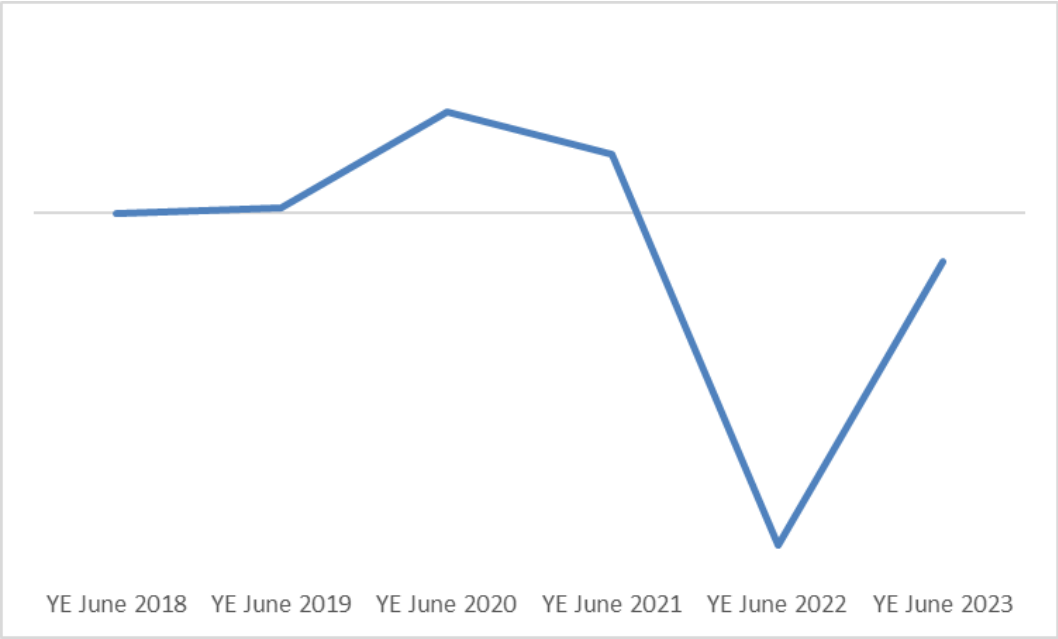

Figure 8: ROI (AUD)

Figure 8 indicates that Comsteel's ROI has increased from YE June 2018 to YE June 2020, then proceeded to decrease from YE June 2020 to YE June 2022 with an increase but still negative ROI in YE June 2023. Consistent with REP 466, the commission calculated ROI based on Comsteel's profit and loss position as a proportion of its net assets. While the assets are used for the production of the goods and other wheels, a proportion of assets has been allocated in the analysis correlating to the production of the goods.

5.6.4 Capacity utilisation

Figure 9 below depicts Comsteel's capacity utilisation rate over the analysis period.

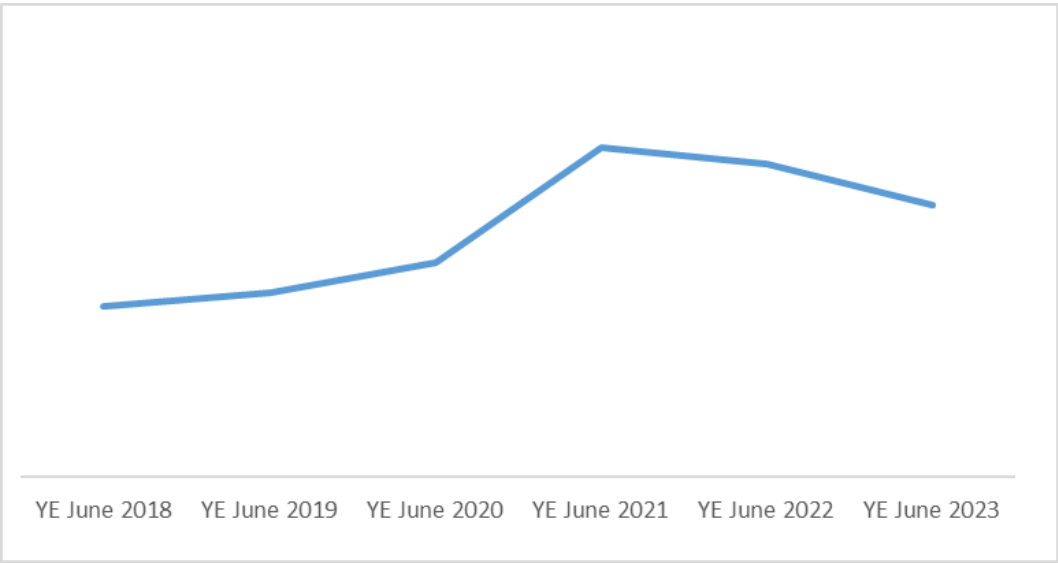

Figure 9: Capacity utilisation

Figure 9 indicates that Comsteel's capacity utilisation increased from YE June 2018 to YE June 2021 before declining in both YE June 2022 and YE June 2023.

5.6.5 Employment

Figure 10 depicts Comsteel's employment numbers over the analysis period.

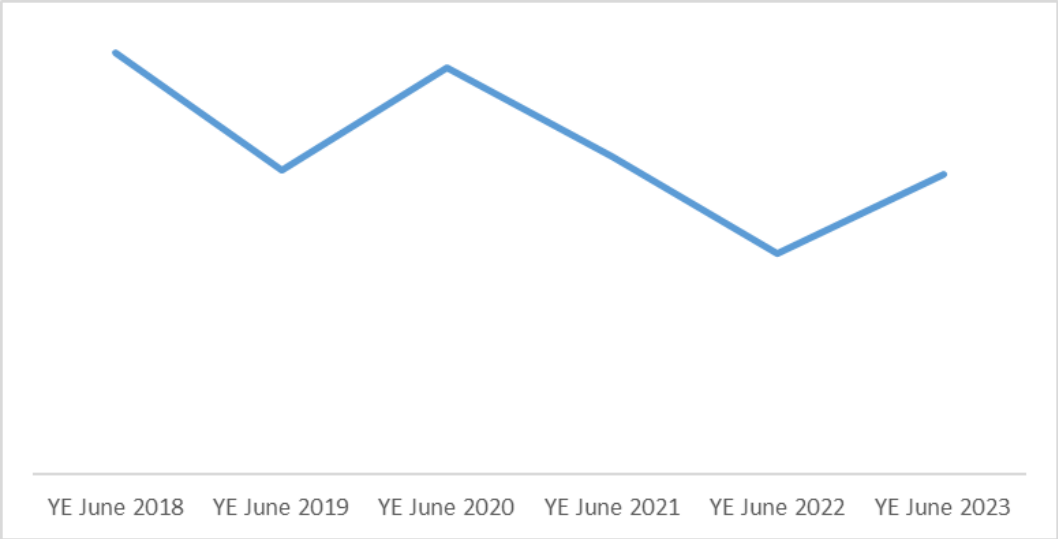

Figure 10: Total number of employees

Figure 10 indicates that employment numbers, whilst fluctuating, have declined since the imposition of measures. The increase in YE June 2023 was driven by increased labour requirements across the whole railway wheel business.

5.6.6 Revenue

Figure 11 depicts Comsteel's net sales revenue from the sale of like goods over the analysis period.

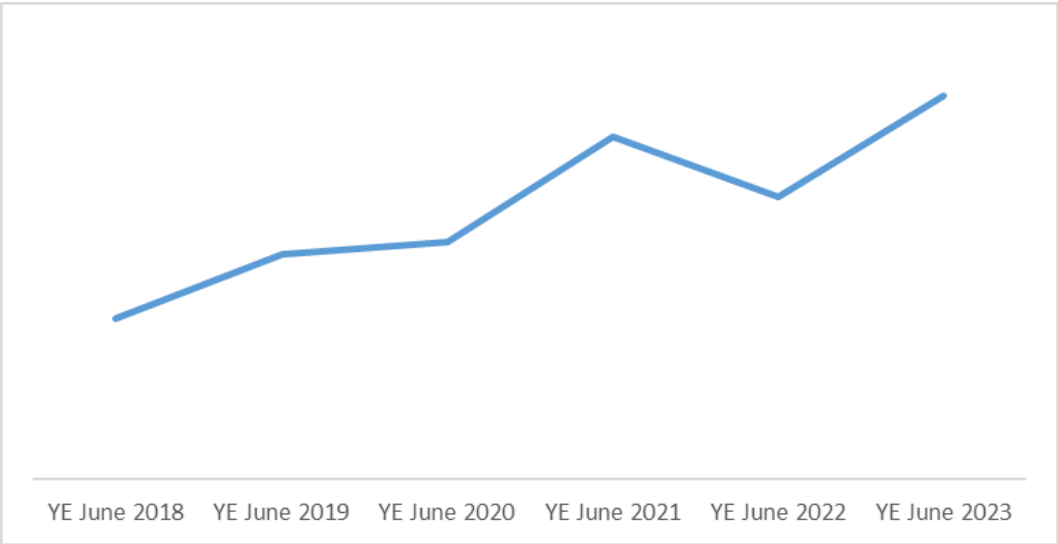

Figure 11: Net sales revenue (AUD)

Figure 11 indicates that Comsteel increased its revenue across the analysis period. Whilst a decline occurred YE June 2022, Comsteel's sales revenue recovered in the YE June 2023.

5.7 Conclusion

As specified in chapter 5.1, the commission preliminarily finds that the Australian industry exhibited mixed results during the period from YE June 2018 to YE June 2023. The change in performance in the last two years demonstrates renewed vulnerability of the Australian industry to exports, in terms of market share.

The commission preliminarily finds that the Australian industry continues to be susceptible to competition from goods imported into the Australian market. Chapter 7 addresses whether the expiration of measures would lead, or would be likely to lead, to a continuation or recurrence of the material injury that the measures are intended to prevent.

Confidential Attachment 2 contains the commission's assessment of the economic condition of Australian industry.

6 DUMPING DURING THE INQUIRY PERIOD

6.1 Preliminary finding

To assess whether dumping is likely to continue or recur, the commission has examined whether exports from China to Australia in the inquiry period were dumped.

The commission received cooperation from MTM, who exported the goods to Australia during the inquiry period. MTM's parent entity and steel billet supplier, MIS, also cooperated to provide supplementary information about MTM.

MIS was subject to its own rate of measures following the original investigation, but did not produce or sell the goods in the inquiry period. MIS stated that it transferred its railway wheel production and sale activities to MTM before the start of the inquiry period.

In respect of exports from France, the commission notes that there have been no exports from France since 2018 (see chapter 2.4.3). The Commissioner has not assessed whether variable factors for French exporters have changed because the commission did not identify any imports from France during the inquiry period.

Given that there were no exports from France during the inquiry period and the proposed recommendation to not continue the measures in relation to France, an assessment of the cooperative status of exporters from France has not been completed.

The commission has preliminarily determined that dumping of exports from China occurred during the inquiry period. The preliminarily dumping margins assessed in relation to China for the inquiry period are summarised in Table 6.

Country	Exporter	Dumping margin
China	MTM	13.3%
China	All other exporters	13.3%

Table 6: Summary of dumping margins

Aside from MTM, the Commissioner is preliminarily satisfied that no other Chinese entities exported the goods to Australia in the inquiry period. The Commissioner has consequently preliminarily established a rate for 'all other exporters' at the same rate as established for the co-operating exporter, MTM. This is discussed further in chapter 6.4.

The Commissioner has also used this information to find that the variable factors for all Chinese exporters have changed.

6.2 Legislative framework

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is

intended to prevent. The existence of dumping during the inquiry period may be an indicator of whether dumping is likely to occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value.

Export price: Export price is determined under section 269TAB. Section 269TAB(1)(a) provides that the export price of any goods exported to Australia is the price paid or payable for the goods by the importer where the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter in 'arms length' transactions.

Normal value: The normal value of goods is determined under section 269TAC. Section 269TAC(1) states that the normal value of any goods exported to Australia is the price paid or payable: for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are 'arms length' transactions by the exporter, or, if like goods are not so sold by the exporter, by other sellers of like goods.

Section 269TAC(2) outlines how to ascertain the normal value where the Minister is satisfied that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) for any of the reasons described in sections 269TAC(2)(a) and 269TAC(2)(b).

Dumping margins: Dumping margins are worked out under section 269TACB. The commission usually applies the method specified in section 269TACB(2)(a) to determine the levels of dumping by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

Uncooperative exporters: Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. Export prices are to be worked out under section 269TAB(3) and normal values are to be calculated under section 269TAC(6). The commission will generally determine an 'all other exporters' rate in investigations, reviews and continuation inquiries, as relevant. The 'all other exporters' rate applies to any exporters not known, or which did not exist, at the time of the investigation, and applies to any new exporters. In practice the commission generally calculates one rate for uncooperative and all other exporters known as the 'the uncooperative and all other exporters rate'.

Further details of the export price and normal value calculations for MTM and all other exporters are set out below.

6.3 Variable factors – Baowu Group Masteel Rail Transit Materials Technology Co Ltd

The commission assessed the variable factors and dumping margin for the cooperating exporter of the goods from China. The following sections outline the assessment for this exporter.

6.3.1 Export price

The commission preliminarily finds that MTM is an exporter of the goods, as MTM:

- is the manufacturer of the goods located in the country of export
- is named as the seller on commercial invoices, and
- arranges and pays for inland transport and port handling charges to the port of export.

For all goods that MTM exported to Australia, the commission finds no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission has calculated an export price under section 269TAB(1)(a), being the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.3.2 Normal Value

6.3.2.1 Normal value – summary

The commission has preliminarily found that MTM sold domestic like goods during the inquiry period, but the sales were not 'arms length' transactions. Therefore, the normal value cannot be determined under section 269TAC(1).[59] Further details regarding this finding can be found in chapter 6.3.2.2 below.

As a consequence of there being no domestic sales of like goods that are 'arms length' transactions, the commission has calculated a normal value under section 269TAC(2)(c) using the sum of:

- the cost of production of the goods in China
- MTM's selling, general and administrative (SG&A) expenses for domestic like goods, and
- an amount for profit.

Further detail regarding each of the above three components of the constructed normal value under section 269TAC(2)(c) can be found in chapter 6.3.2.3 below.

For the cost of production of the goods in China, the commission considers that MTM's production records for raw material costs for steel billet did not reasonably reflect raw material costs associated with production of the goods. The reasoning for this finding and

[59] As there is an absence of sales of like goods that would be relevant for the purpose of determine a price under section 269TAC(1), as section 269TAC(2)(a)(i) refers.

the commission's approach to calculating steel billet costs is outlined in chapter 6.3.2.3 below.

For the remaining components in the cost of production, the commission used MTM's production records.

6.3.2.2 Normal value – domestic sales were not 'arms length' transactions

As specified above, the commission has preliminarily found that MTM sold domestic like goods during the inquiry period, but the sales were not 'arms length' transactions. Specifically, the commission has preliminarily found the domestic sales were not 'arms length', on the basis that sales prices appeared to be influenced by a commercial or other relationship between the buyer and the seller.[60]

The commission details its reasons for making this preliminary finding further in its verification report of MTM.[61] In summary:

- MTM and its domestic customer are both state-owned entities and share the same majority shareholder
- MTM and its domestic customer have a preferential pricing agreement for products including domestic like goods
- the agreement included terms not reflective of genuine commercially-negotiated terms, specifically for price-setting factors and price reductions
- in practice, MTM's domestic customer received price reductions in a manner that did not follow the agreed terms and did not reflect arrangements negotiated at 'arms length'.

Further details are in **Confidential Appendix E**.

Having regard to these factors, the commission has preliminarily found that the arrangements and practices between MTM and its domestic customer did not reflect conditions of genuine competitive bargaining and selling between independent parties.

As a result, the commission has preliminarily found there is an absence of domestic sales of like goods relevant for determining a normal value price under section 269TAC(1). On this basis, the commission regards section 269TAC(2)(a)(i) to apply to MTM for this inquiry. The commission has therefore calculated a normal value under section 269TAC(2)(c).

6.3.2.3 Normal value – constructed under section 269TAC(2)(c)

Cost of production

Steel billet is the main component of the cost of production for the goods. All steel billet was purchased from MTM's related party parent company and supplier, MIS.

The commission has preliminarily found that MTM's steel billet costs did not reasonably reflect raw material input costs associated with production of the goods in China.

---

[60] Section 269TAA(1)(b).
[61] Verification report to be published following review by MTM.

Specifically, the commission found that MTM purchased steel billet from MIS in transactions that were not at 'arms length'. The commission assessed the steel billet purchase price as influenced by the relationship between MTM and MIS, based on the available evidence.[62]

The commission details this finding further in its verification report of MIS[63] and **Confidential Appendix E**.

The commission assessed the information available about the price of steel billet in China. For this assessment, the commission reviewed information from cooperating stakeholders to this inquiry and benchmark price information.

The third-party market information reviewed included benchmark prices for steel billet. The commission notes that, compared to the benchmark prices for steel billet, the grade of billet used to produce the goods typically:

- costs more to make
- attracts a higher sales price
- is physically and chemically distinct.

To address these differences, the commission further adjusted the benchmark prices to reflect the premium for the specialised type of steel billet suitable to produce the goods. This assessment is included in Appendix B.

This approach to the benchmark prices is consistent with submissions from stakeholders in this inquiry, the commission's verification findings and assessment in Appendix B.

After assessing the information available, the commission relied on MIS's information to calculate a steel billet raw material cost based on the cost to make and sell steel billet plus an amount for profit.

MIS provided production cost records specific to a general category of steel billet that included the grade of billet used to produce the goods and other grades. Specifically, the general category of MIS's production costs was for production of 'special steel billet'. The commission notes that 'special steel' is an industry term for steel with higher strength or toughness and steel with higher proportions of microalloying elements. The commission has used MIS's production cost records for special steel billet because MIS could not isolate production costs specific only to the grade of billet used to produce the goods.

The commission relied on MIS's domestic SG&A expense records for sales of the grade of steel billet used to produce the goods, allocated using the sales revenue and quantity of the general category of steel billet.

To work out a reasonable amount of profit, the commission relied on MIS's domestic sales of steel billet in the same general category as the grade used to produce the goods to unrelated customers. The amount for profit was the difference between this sales

---

[62] Section 269TAA(1)(b).
[63] Verification report to be published following review by MIS.

revenue and the sum of the general category production costs and domestic SG&A expenses (unit SG&A expenses allocated using grade-specific sales data).

The commission replaced MTM's steel billet raw material costs with the steel billet cost calculated as described above, plus an amount for raw material delivery based on MTM's inland transport expense records.

For all other cost components for production of the goods, the commission relied on MTM's production records.

As specified above, the commission discusses how it assessed MIS's steel billet production cost records in Appendix B.

Selling, general and administrative expenses

As part of the constructed normal value under section 269TAC(2)(c), the commission has calculated MTM's selling, general and administrative (SG&A) expenses for domestic like goods. This is in accordance with regulation 44(2) of the *Customs (International Obligations) Regulation 2015* (Cth) (the Regulation).

Profit

To determine the profit for the constructed normal value under section 269TAC(2)(c), the commission considered regulation 45.

Regulation 45(2) requires the Minister to work out an amount for profit under section 269TAC(2)(c)(ii) using sales data in the ordinary course of trade, among other requirements. The commission therefore preliminarily assessed if MTM's domestic sales of like goods were in the ordinary course of trade. In conducting this assessment, the Commissioner is reasonably satisfied that MTM's domestic sales of like goods were *not* in the ordinary course of trade. This preliminary finding has been made on the basis of the following reasons:

- The commission considers there is sufficient evidence which indicates that MTM and its domestic customer agreed to sales prices, including price-setting and price reductions (see **Confidential Appendix E** for further detail of the arrangement).
- The Commissioner is reasonably satisfied that this agreement was not reflective of genuinely commercially negotiated terms for the sale of like goods in the Chinese market.

The commission notes that its policy in the Manual states:

> *Depending on the circumstances, profitable sales may not be in the ordinary course of trade. These circumstances may include sample sales, promotional sales made at special prices, end of season sales, low quality sales, or sales in* ***other unusual circumstances****.*[64] [emphasis added]

[64] The Manual, chapter 7.2.

Having regard to all the circumstances, the Commissioner is reasonably satisfied that MTM's domestic sales of like goods were not in the ordinary course of trade, on the basis that they represented sales in other unusual circumstances.

On this basis, the commission considers that, because MTM did not sell any domestic like goods in the ordinary course of trade in the inquiry period, the Minister cannot work out an amount for profit under regulation 45(2).

The commission has therefore calculated a profit under regulation 45(3)(a). The application of this regulation is enlivened in circumstances where the Minister is unable to work out the amount by using the data mentioned in regulation 45(2). In accordance with regulation 45(3)(a), the commission has calculated a profit by identifying the actual amounts realised by the exporter from the sale of the same general category of goods in the domestic market. Having regard to the circumstances, the commission considers the same general category to be the like goods sold on the domestic market together with railway wheels with the next closest diameter of wheel size. The commission was able to calculate the actual amounts realised using the verified records of MTM.

The commission notes that its policy in the Manual states the following:

> *The purpose of the constructed normal value is to estimate as closely as possible, using costs and profit, what the price of the exported goods would have been had they been sold in the ordinary course of trade in the exporter's domestic market*.[65]

The commission considered whether the same general category of goods should be interpreted narrowly or broadly. In this instance, the commission considers that a narrower interpretation of the same general category of goods should be applied. The commission notes that the sales included in the same general category substantially increases the volume of sales considered for the calculation of profit, beyond the sales of like goods.

The commission considered whether a broader general category should be applied, but notes that there are significant fluctuations in the unit cost to make, selling prices and profitability for different specifications of railway wheels sold in the domestic market, even when limited to the subset of wheels sold for end use in freight carriages. A broader interpretation of the same general category would lead to significant variations of products and profitability. It would include products with profit rates that are markedly different to the sales of the narrower general category selected, that have greater product differences, and that are incompatible with the profit rates achievable for sales of the like goods in China. The commission further notes that the general category determined has a profit that is consistent with the direct evidence of the profit MTM was targeting on the domestic sales of the goods.

Normal value – domestic market conditions for sales of like goods

As noted above, the commission has preliminarily found there is an absence of domestic sales of like goods relevant for determining a normal value under section 269TAC(1), on the basis of not being reasonably satisfied that the relevant transactions are 'arms length' in nature. As a result, in accordance with section 269TAC(2)(a)(i), the commission cannot

---

[65] The Manual, chapter 9.2.

determine a normal value price under section 269TAC(1). Consequently, this report does not discuss if the situation in the Chinese market is such that the sales of like goods are not suitable for use in determining a normal value price under section 269TAC(1) (in accordance with section 269TAC(2)(a)(ii)).

6.3.3 Normal value adjustments

In constructing a normal value under section 269TAC(2)(c), the commission considers that certain adjustments are necessary to ensure that the normal value is properly comparable with the export price under section 269TAC(9). The commission detailed these adjustments in the MTM verification report and in Appendix C to this report.[66]

In accordance with section 269TAC(9) of the Act, the commission preliminarily finds that the following adjustments are necessary to ensure a fair comparison of normal values and export prices.

Adjustment type	Deduction/addition
Export inland transport	Add an amount for export inland transport
Export port handling charges	Add an amount for export port handling charges
Export credit insurance	Add an amount for export credit insurance
Export fixing and binding fee	Add an amount for export fixing and binding
Export bank charges	Add an amount for export bank charges
Export product liability insurance	Add an amount for export product liability insurance
Export credit terms	Add an amount for export credit terms

Table 7: Normal value adjustments

6.3.4 Dumping margin

The Commission calculated the dumping margin in accordance with section 269TACB(2)(a) , by comparing the weighted average of export prices over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of that period.

The preliminary dumping margin for the goods exported to Australia by MTM for the inquiry period is **13.3%**

The commission's dumping margin calculations for MTM are at **Confidential Attachment 3.**

6.4 Variable factors – All other exporters from China

As the Commissioner is preliminarily satisfied that no other Chinese entities exported railway wheels to Australia in the inquiry period, the Commissioner has preliminarily established a rate for all other exporters at the same rate as established for the co-operating exporter, MTM.

[66] Verification report to be published following review by MTM.

Export prices for all other exporters from China have been established under section 269TAB(3) of the Act and normal values have been established under section 269TAC(6) using relevant information provided by the cooperating exporter, MTM.

The preliminary dumping margin all other exporters from China for the inquiry period has been calculated at **13.3%**.

The commission's dumping margin calculations all other exporters are at **Confidential Attachment 4.**

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Preliminary finding

On the basis of the evidence obtained in the course of this inquiry, the Commissioner is:

- **satisfied** that the expiration of the measures applying to railway wheels exported to Australia from China would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent
- **not satisfied** that the expiration of the measures applying to railway wheels exported to Australia from France would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

After considering the commission's analysis and preliminary findings, the Commissioner is preliminarily satisfied that the following would be likely to occur if the measures were to expire:

- China would continue exporting the goods because:
  - it has been the dominant supplier to the Australian market since 2018, maintaining distribution links to 3 of the 4 mining companies that purchase the goods
  - based on verified production capacity information, further discussed at chapter 7.5.3, it maintains excess production capacity.

- Exports from China would be dumped because the goods were dumped during the original investigation and were dumped during the inquiry period.

- The dumped goods from China would cause material injury to Australian industry in the form of reduced sales and market share, price depression and price suppression and reduced profit and profitability because:
  - the Australian market for railway wheels is highly concentrated, with 2 established suppliers and 4 mining companies who purchase the railway wheels
  - while railway wheels are produced to specification and the mining company may consider a range of factors in the purchasing decision, price is a significant consideration (as considered at chapter 7.7)
  - dumped exports from China undercut Australian industry prices during the inquiry period
  - dumping would continue to provide Chinese producers with a significant price advantage that would see the Australian industry suffer material price injury, should the Australian industry compete on price, or if the Australian industry is unable to compete on price, material reductions in sales volume and market share
  - the Australian industry would also suffer material injury in the form of reduced profits and profitability, as well as other factors related to price and volume injury.

- France would not continue exporting the goods because:
  - there have been no exports of the goods from France since 2018 and there is no evidence before the commission which suggests that distribution links or pre-approvals to supply the Australian market have been maintained since measures were imposed
  - the sole manufacturer of the goods in France has recently entered insolvency administration, which makes it unlikely that Australian mining companies seeking timeliness and reliability of supply would see France as a viable source of supply.

7.2 Legislative framework

Under section 269ZHF(2) the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless they are satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. An assessment of 'likelihood' under section 269ZHF(2) requires the Commissioner to consider whether the expiry of the measures would **more probably than not** lead to the continuation or recurrence of dumping and material injury.

In making this assessment, the Commissioner must base their conclusions and recommendations on facts,[67] as the likelihood assessment under section 269ZHF(2) requires a reasoned and adequate explanation with a positive factual basis.

Accordingly, the Commissioner must arrive at a reasoned conclusion based on positive evidence.

7.3 The commission's approach

The commission considered a number of relevant factors to assess the likelihood that dumping and material injury will continue or recur, as outlined in the Manual.[68] The commission's view is that the relevance of each factor varies depending on the nature of the goods and the market into which the goods are sold. In this instance, the commission finds that no single factor is determinative. Rather, the commission considers that when assessed in aggregate, the factors point to the conclusion that, for exports of the goods from China, the expiry of the measures would likely lead to the continuation or recurrence of dumping and material injury. The following analysis examines the various factors that the commission has considered in arriving at this conclusion.

The commission's analysis for this chapter is at **Confidential Attachments 5 and 6**.

---

[67] Anti-Dumping Review Panel, *ADRP Report No 44: clear float glass exported from the People's Republic of China, the Republic of Indonesia and the Kingdom of Thailand*, ADRP, Australian government, December 2016, accessed 26 March 2024.
[68] The Manual, pp 136–138.

7.4 Australian industry claims

In its application, the applicant made the following claims regarding the continuation or recurrence of injury of railway wheels exported to Australia from China and France:

- Producers in China and France are active on export markets with exports from both countries increasing significantly since 2017.
- MTM has maintained distribution links into the Australian market through the life of the measures.
- The applicant has continued to experience rigorous price competition from Chinese imports, with significant levels of price undercutting apparent.
- Domestic demand in China for steel products has slowed and producers are actively seeking out increasing export sales at reduced prices to maintain production utilisation rates.
- In the absence of measures, export volumes and values to Australia from both China and France would increase.
- While exports from France ceased following the imposition of measures, the common ownership of the Chinese producer MTM and the French producer Valdunes provides an opportunity for the parent company to shift export volumes from China to France should measures not be continued on France.
- Should the measures be allowed to expire, the advantage afforded to the dumped exports by MTM (whether it be from the facility in China, or from Valdunes' production facility in France) will cause a recurrence of the material injury that the measures are intended to prevent.
- The material injury that will likely occur will be in the form of increased price undercutting, lost sales volumes due to the price sensitive nature of purchases in the industry, and reduced profits and profitability.
- The expiration of the measures will seriously undermine and threaten the viability of domestic railway wheels manufacture in Australia.

The commission has considered the applicant's claims in its analysis below.

7.5 Are exports likely to continue or recur?

China

The commission considers that, should the measures expire, exports from China are likely to continue.

This preliminary finding is based on the following factors:

- imports into the Australian market have continued following the imposition of measures
- distribution links have been maintained and purchasers of railway wheels from China have indicated they intend to continue to source supply from China
- exporters from China maintain excess production capacity.

France

The commission considers that exports from France are unlikely to recur in the future.

This preliminary finding is based on the following factors:

- Valdunes, the only known manufacturer of the goods in France, has not exported the goods to Australia since the imposition of the measures.[69]
- There is no evidence that MG Valdunes has maintained distribution links to the Australian market.
- Given the time elapsed since Valdunes ceased supplying the Australian market, it is likely that Valdunes would need to reapply for supplier pre-approval, a process which can take considerable time to complete.
- Publicly available information indicates that Valdunes has entered into insolvency administration due to its inability to pay its debts, a circumstance the commission considers would limit its viability as a future supplier to the Australian market.
- Given that MTM is seeking to sell its interest in Valdunes and Valdunes is also in insolvency administration, the commission considers that it is unlikely that MTM would shift export supply to Valdunes in the absence of measures applying to France.

For these reasons the Commissioner is preliminarily satisfied that the expiry of the measures would not be likely to lead to a recurrence of exports from France.

In making this preliminary finding, the Commissioner has assessed import volumes, maintenance of distribution links, excess production capacity and other relevant considerations, as outlined in the sections below.

7.5.1 Import volumes

The commission analysed import volumes from all sources, including the subject countries, from 1 July 2014. The commission also analysed the pattern of trade before and after the measures to assess the effect the measures had on import volumes.

The commission's analysis is in Figure 12 below:

[69] Valdunes further stated in a submission that it had not made a sale of the railway wheels subject to the measures either domestically, to Australia or to a third country since February 2018: see EPR 632, document number 4.

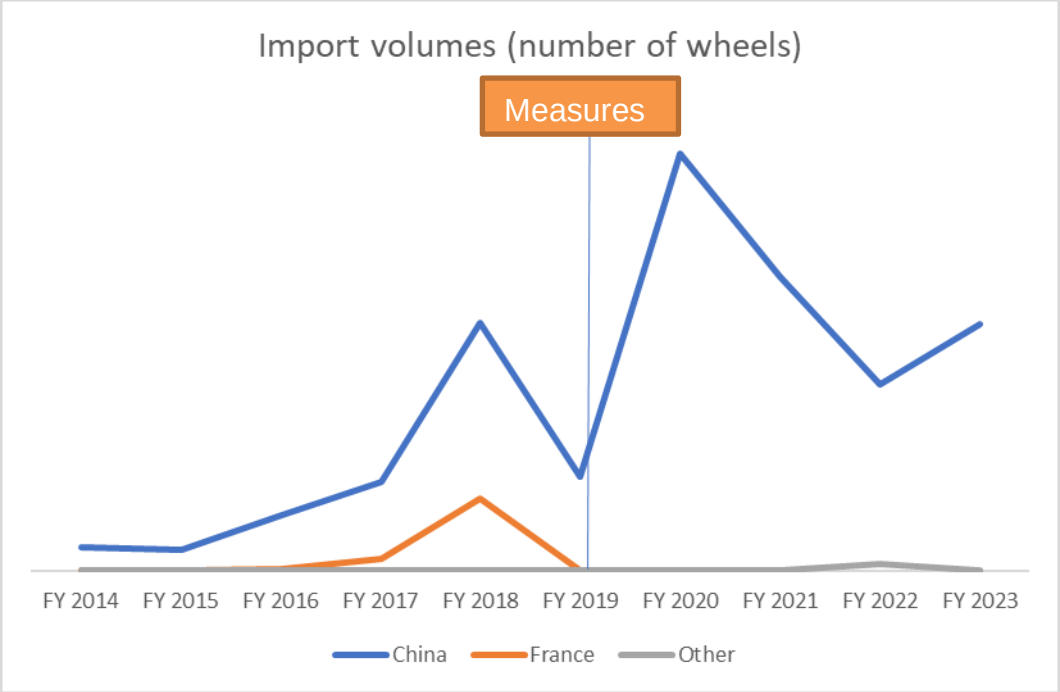

Figure 12: Import volumes (unit: wheels)

Figure 12, and the underlying data supporting it, indicates that:

- prior to the imposition of measures the totality of imports were sourced from China and France
- following the imposition of measures imports from France ceased, however the volume of imports from China increased
- China has remained the primary supplier of imports into the Australian market, with only a small volume of imports evident from other sources in FY 2022.

7.5.2 Maintenance of distribution links

As detailed in chapter 4.3, railways wheels were only procured by 4 entities in Australia during the inquiry period. These are the same entities that procured railway wheels during the original investigation. The commission observed no new importers of the goods from the subject countries since the imposition of measures, however noted a small volume of goods were imported from Italy, a country not subject to measures, during financial year 2022.

The commission has used ABF data as well as information supplied by relevant parties during the inquiry to analyse distribution links in the Australian market.

The commission observed that, following the imposition of measures, distribution links were maintained between MTM (including its parent entity, MIS, the original exporter), and its Australian mining company purchasers. Imports from France ceased following the imposition of measures, with the Australian importer of railway wheels from France sourcing the entirety of its imports instead from China after that time.

7.5.3 Excess production capacity

The commission analysed the excess production capacity for each of the exporters that submitted capacity utilisation data for the inquiry period.

The commission is satisfied that MTM has excess production capacity that would allow it to supply the entire Australian market.

The commission noted from Valdunes' exporter questionnaire response that its production capacity had significantly reduced since the original investigation and it was operating with limited excess production capacity during the inquiry period.

7.5.4 Other relevant considerations – Valdunes

Valdunes is a wholly owned subsidiary of MIS. In a submission dated 21 September 2023, Valdunes stated that MIS was in negotiations to divest itself of its interest in it.[70]

Subsequently, on 14 November 2023 MIS made an announcement pursuant to the rules governing the listing of securities on the stock exchange of Hong Kong concerning Valdunes.[71] The announcement indicated that Valdunes had been deemed to have experienced cash flow insolvency under French law due to its inability to repay its debts with its available assets. Valdunes was therefore required to file a declaration of cessation of payments with the Lille Métropole commercial court requesting the initiation of judicial reorganisation proceedings.

The announcement provided background and reasons for the application, noting MIS had:

> *adopted a series of measures such as strengthening management, improving production, adjusting product structure, benchmarking and identifying discrepancies, as well as exploring internal potentials, which have enabled MG-Valdunes to achieve certain phased results in terms of market development, operational improvement, and losses reduction, but have not yet achieved a substantial turnaround in its loss-making situation. Especially since 2020, the cost of European manufacturing industry has been increasing, the market demand in the global rail transportation industry has declined sharply, the prices of ocean freight and European energy have increased significantly, and MG-Valdunes' operating situation has become more severe.*[72]

On 27 November 2023, a further announcement[73] was provided to the Hong Kong stock exchange indicating that the court initiated judicial reorganisation proceedings against Valdunes on 20 November 2023. The court appointed a bankruptcy judge, a representative of creditors, an auctioneer, a real estate appraiser and a judicial administrator. The tasks of the judicial administrator include, among other things,

---

[70] EPR 632, document number 4.
[71] MIS, *Announcement on bankruptcy reorganisation application of a wholly-owned subsidiary MG-Valdunes*, HKEX News website, 14 November 2023, accessed 25 March 2024.
[72] MIS, *Announcement on bankruptcy reorganisation application of a wholly-owned subsidiary MG-Valdunes*, p 2.
[73] MIS, *Announcement on progress of the bankruptcy of MG-Valdunes, a wholly-owned subsidiary*, HKEX News website, 27 November 2023, accessed 25 March 2024.

assisting Valdunes in proceeding with all administration and finance disposal related works. Having regard to the above factors, the commission considers that there is positive evidence which indicates it is unlikely that Valdunes would represent a viable source of supply for the Australian market, given its financial position and the need for the mining companies to have certainty of supply to ensure the efficient operation of their railways.

In its application Comsteel submitted that:

> *due to the common ownership between the producing companies in China and France, it is considered prudent that Comsteel also seek the continuation of exports to Australia from France even though there has been no exports from the Valdunes facility since the measures were imposed.*[74]

For the reasons detailed above, the commission does not consider it likely that Valdunes would represent a viable source of supply to the Australian market. As such the Commissioner is not preliminarily satisfied that the expiry of the measures would be likely to lead to a recurrence of exports from France.

7.6 Will dumping continue or recur?

China

The commission considers that there is positive evidence which indicates that the expiry of the measures would be likely to lead to a continuation of dumping from China.

The Commissioner's preliminary findings concerning a continuation or recurrence of dumping of exports from China is based on the finding of dumping during the original investigation and the finding that exports by the only exporter from China were dumped during the inquiry period, with a dumping margin of 13.3%.

France

As noted at chapter 7.5.4 (above), the commission is not preliminarily satisfied that the expiry of the measures would be likely to lead to a recurrence of exports from France. Therefore, the commission finds that the expiry of measures is not likely to lead to recurrence of dumping in the future.

7.6.1 Dumping margins analysis

Having regard to a verified exporter questionnaire response and other relevant information, the commission is satisfied exports from China during the inquiry period were dumped. The dumping margin assessed was 13.3%.

7.6.2 Previous dumping assessments

The original investigation determined that goods exported from China were dumped.

There has been ongoing exportation of the goods from China. Since the imposition of measures there have been no applications for review of variable factors by Chinese

---

[74] EPR 632, document number 1.

exporters, nor any applications for duty assessments. The commission's dumping assessment therefore draws on the inquiry period, that being the most current available evidence of the export price and normal value.

7.6.3 Anti-dumping actions in other jurisdictions

The commission is not aware of anti-dumping measures applying to the export of railway wheels from China or France in other jurisdictions.

7.6.4 Submissions received in relation to dumping

Both BHP and Rio Tinto submitted that MTM is not dumping.

In its submission, BHP undertook a financial analysis of MTM in support of its claim. BHP's analysis highlighted the following factors:

- 60% of MTM sales are in the domestic market compared to 4% of sales to Australia and as such it does not need to export at dumped prices to secure revenue.
- Ore car wheel and axle production comprises MTM's premium business which it operates with high profitability.
- Profits have consistently been over 10% which indicates that the goods are not being exported below cost, and therefore not dumped.[75]

Rio Tinto submitted that:

> *there has been no concrete evidence of dumping; [MTM is] cheaper on a price point comparison because they have invested heavily in automation and improved business practices – whilst still producing the better-quality product. These factors in and of themselves do not constitute dumping; it is not demonstrated on the facts that they have dumped; they have a better quality product that can be manufactured cheaper than possible in Australia; and therefore necessarily equates to cheaper prices on the international market*.[76]

As detailed in chapter 6, 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 the goods are determined under sections 269TAB and 269TAC respectively. The commission applied the method in section 269TACB(2)(a) to determine whether dumping has occurred and the levels of dumping by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

Based on the application of the relevant legislative provisions, the commission determined that the goods exported from China were dumped during the inquiry period.

It is important to note the legislative assessment of dumping involves factors beyond those referenced by BHP and Rio Tinto. The commission notes that an overseas manufacturer may enjoy lower costs of labour, higher levels of productivity, greater levels

---

[75] EPR 632, document numbers 8, 16.
[76] EPR 632, document number 6.

of automation, more efficient business processes and/or the benefits of economies of scale relative to a domestic Australian producer. However, this of itself does not lead to the conclusion that a manufacturer is not exporting its products at a price less than its normal value. Similarly, an overseas manufacturer may have a profitable domestic market into which it sells most of its production, but that does not of itself mean that the manufacturer is not exporting its products at a price less than its normal value.

Based on the verified financial information provided by MTM, and for the reasons detailed in chapter 6.3.4 above, the commission is satisfied that during the inquiry period MTM exported the goods at a price lower than the normal value, and therefore engaged in dumping.

For the reasons detailed in chapter 7.6, the Commissioner is further satisfied that dumping of the goods from China is likely to continue.

7.7 Will material injury continue or recur?

China

For exports from China, the commission considers that the expiry of the measures on exports from China would be likely to lead to a continuation of, or a recurrence of, material injury that the measures are intended to prevent.

In arriving at this conclusion, the commission has assessed factors that affect procurement decisions in the Australian market, pricing and sales volumes in the absence of measures, and other potential causes of injury to the Australian industry, as outlined in the sections below.

The commission considers that:

- the procurement decisions of mining companies will involve a range of factors, with price being integral
- dumped railway wheels from China undercut the Australian industry's prices during the inquiry period
- the Australian industry responded to this price undercutting by selling significant volumes of railway wheels at, or below, cost to make and sell
- in the absence of measures Chinese railway wheels would have an even greater pricing advantage compelling the Australian industry to further reduce prices, or if unable to do so, to likely cede sales volumes and market share.

France

In chapter 7.5 above, the commission concluded that exports from France are not likely to recur should the measures cease to apply to France and therefore that the expiry of measures is not likely to lead to recurrence of dumping. Consequently, the Commissioner has not considered whether material injury is likely to recur if the measures on exports from France cease to apply.

7.7.1 Factors affecting procurement decisions in the Australian market and the commissions approach to assessing likelihood of material injury

As detailed in chapters 4.3 to 4.6, the Australian market for the goods is highly concentrated. Discounting an immaterial volume of supply from Italy (not subject to measures) in financial year 2022, the Australian market has been entirely supplied by Comsteel and MTM and its predecessor since the imposition of measures. The Australian market continues to be comprised of only 4 mining company purchasers.

Since the imposition of measures in 2019, 2 mining companies have dual sourced railway wheels from Comsteel and MTM, a third mining company has relied entirely on Comsteel for its supply, while BHP has not purchased railway wheels from the Australian industry.

Each purchaser has unique specifications for railway wheels. Furthermore, it is essential that the railway wheels supplied provide for the safe and efficient operation of the railways. For the purchasers of railway wheels, procurement decisions will be made by reference to a range of factors including specification requirements, quality and safety, reliability and continuity of supply and price. Within this context entry to the market for new suppliers can be onerous and time consuming which may explain why Comsteel and MTM continue to be the only suppliers in the Australian market.

As was the case during the original investigation, the commission was presented with competing information regarding the quality and performance of railway wheels produced by Comsteel (as considered above), and the potential impact of those issues on the procurement decisions of purchasers. The commission accepts that wheel failures are a serious matter for the mining companies. The seriousness with which the companies view such events is demonstrated by the exacting wheel specification and design requirements imposed by the mining companies, their scrutiny and approval of potential suppliers, the monitoring of the condition of the wheels and the extensive investigation into wheel failure events.

In the context of its assessment of the likelihood of material injury if the measures were to expire, the commission has considered the information provided, though not seeking to make a conclusion about the relative quality of goods in the market. Rather, the commission has assessed the information seeking to determine whether the dumped goods were purchased for reasons independent of price. If the dumped goods have been purchased independent of price, then it is open for the commission to conclude that price was not a relevant factor in the procurement decision and therefore dumping was not, or may not continue to be, a cause of any injury suffered to the Australian industry.

During this inquiry BHP submitted that it will not acquire railway wheels manufactured by Comsteel irrespective of price until such time as Comsteel's goods are able to meet BHP's specification and quality concerns.[77] BHP submitted that material injury, if any exists, has been caused in the period under review by Comsteel's own failure to offer a product that can reasonably be accepted by BHP and other major users.

Rio Tinto has also submitted that the railway wheels supplied by Comsteel and MTM are not directly substitutable given concerns for safety, quality and lifespan of the respective

[77] EPR 632, document number 16, 8.

products.[78] Rio Tinto therefore infers that injury to the Australian industry is due to quality and performance issues rather than lower priced dumped exports.

The commission notes that Rio Tinto has nevertheless continued to purchase railway wheels from Comsteel. The commission considers that were the quality and performance issues raised such a threat to the safe and efficient operation of its railways, Rio Tinto would have discontinued supply from Australian industry.

The commission received no submissions from FMG and Roy Hill in the course of the inquiry and therefore has no information from those suppliers as to quality of the goods produced by Comsteel or in China.

However, on the basis that 3 of the 4 Australian mining companies continue to seek supply from the Australian industry, and BHP continue to utilise Comsteel railway wheels, and the commission's analysis of the information provided as to quality, the commission considers there is sufficient evidence to support a finding that quality and performance issues are not of such significance as to allow the commission to form a conclusion that pricing is not a factor in the procurement decision.

The commission is therefore satisfied that price is an integral factor in procurement decisions and dumping may provide MTM a pricing advantage that it may not otherwise enjoy. The commission's pricing and sales analysis detailed below proceeds on that basis. In the context of that analysis, the commission considers that while BHP is adamant it will not source from the Australian industry due to quality and performance issues, the Australian industry can nonetheless suffer future material injury due to dumped exports in relation to the remainder of its customer base.

7.7.2 Pricing analysis

The commission used information obtained from Comsteel, MTM, BHP and Rio Tinto and the ABF import database to undertake a price undercutting analysis for the inquiry period. This analysis was undertaken comparing the delivered cost (actual or constructed) of the imports from China with Comsteel's prices.

This analysis shows that during the inquiry period dumped imports from China undercut Comsteel's selling prices by significant margins. In the absence of measures the degree of price undercutting would be even more significant. The commission considers it is likely that Australian industry would need to reduce prices in response to the lower prices of exports from China.

The commission also undertook an analysis of the Australian industry's profitability in relation to each purchaser of the goods since the measures were imposed.

To preserve the confidentiality and commercially sensitive nature of the information available to the commission, the specific details of the analysis cannot be detailed publicly however it is available in **Confidential Appendix F** to the report.

The commission considers that the profitability analysis undertaken supports a preliminary finding that price suppression and depression is more likely in relation to

[78] EPR 632, document number 6.

those purchasers who have sourced railway wheels from both Comsteel and MTM. The commission considers the preparedness of these mining companies to procure dumped exports from China has placed pressure on the Australian industry to sell at depressed and suppressed prices.

The Commission's price undercutting analysis is at **Confidential Attachment 6**.

7.7.3 Sales analysis

The commission considers that if the measures were allowed to expire, the Australian industry will experience a reduction in sales volume and market share.

Figure 13 below illustrates movements in the size and composition of the Australian market for the last 10 completed financial years.

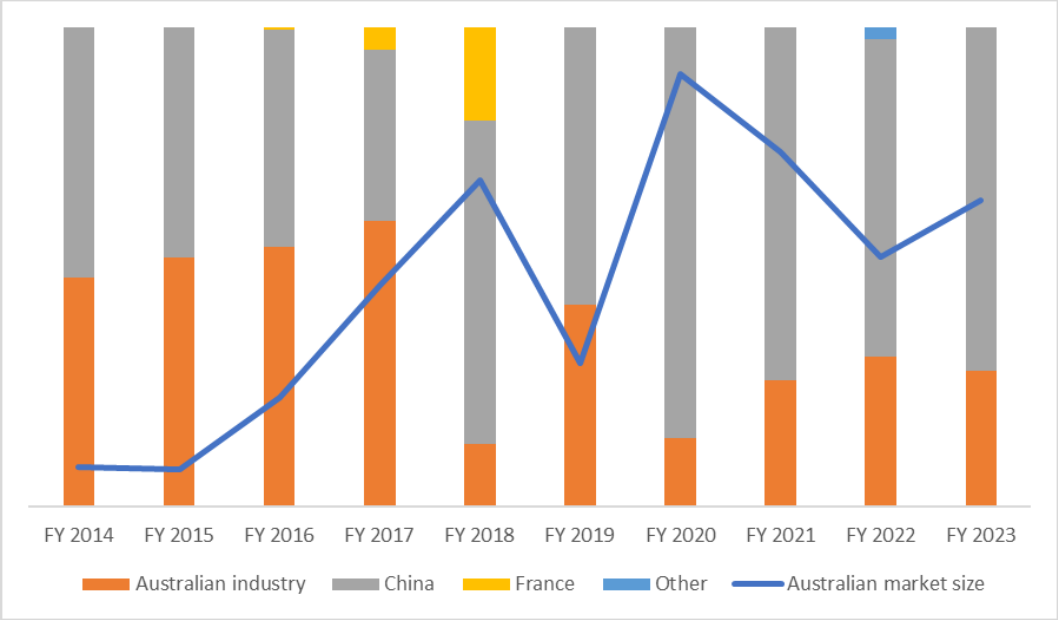

Figure 13: Australian railway wheels market size (unit: wheels) and market share (%)

Figure 13 shows that the Australian market for railway wheels grew strongly until financial year 2018 after which time the size of the market has been erratic. Up until 2018 the Australian industry was able to capture increasing market share, however 2018 saw a dramatic fall in market share at the expense of imports from China and France. BHP's decision to source supply from these countries represented a major change in the dynamics of the Australian market. Following the imposition of measures in 2019 the Australian industry was able to regain market share, however overall market share has remained well below the peak achieved in 2017.

As discussed previously, BHP has asserted that, irrespective of price considerations, it will not procure railway wheels from the Australian industry until its quality and performance concerns are addressed. BHP's position diminishes the size of the market available to the Australian industry, however the Australian industry remains in direct competition with imports from China for the business of the remaining 3 mining companies. Since the imposition of measures these 3 companies have accounted for over 50% of the volume of railway wheels sold into the Australian market from all sources.

The Australian industry is therefore vulnerable to continuing volume injury in relation to a substantial segment of the Australian market.

As detailed in the pricing analysis above, it is evident that the Australian industry has experienced price depression and suppression in its efforts to maintain sales volumes when competing with dumped exports from China. The commission's pricing and profitability analysis indicated that the Australian industry is supplying purchasers, who have previously purchased dumped railway wheels from China, at or below cost to make and sell. In the absence of measures the Australian industry would come under increased pressure to suppress or further reduce prices. Given the evidence of goods being sold at a loss by the Australian industry, further price reductions may not be possible. In this event the commission considers it is likely that purchasers will choose to source railway wheels from China rather than the Australian industry, contributing to material injury through reduced sales volumes and market share.

7.7.4 Other injury factors

The commission also received submissions on other reasons exports from China are not causing injury to the Australian industry.

BHP submitted that Comsteel's monopolistic market power following the imposition of the measures has disincentivised them to invest in innovation and technology to improve product quality and to streamline manufacturing costs. In BHP's view Comsteel will remain uncompetitive until it addresses these issues.[79]

Rio Tinto submitted that:

- Comsteel enjoys a monopolistic market position and therefore has no incentive to improve its business model
- the current dumping measures provide a significant price advantage for Comsteel in encouraging local users to purchase domestically, rather than sourcing internationally
- MTM maintains a competitive advantage in the Australian market because it has cheaper processing costs and has invested in more efficient technologies that allow it to produce a superior product that is cheaper than Comsteel.[80]

Rio Tinto contended that Comsteel provided no concrete evidence that shows that dumping has been the sole cause of injury to the Australian industry and that other factors such as quality concerns, economies of scale, and contemporary pricing have contributed to the pricing discrepancies and move away from domestic manufacturers by local importers.

The commission notes, however, that while injury caused by other factors should not be attributed to dumping, dumping need not be the sole cause of injury to the industry. As such, the commission has considered the factors raised by interested parties that may have caused, or may continue to cause injury to the Australian industry, while

[79] EPR 632, document number 16, 8.
[80] EPR 632 document number 6.

nonetheless focusing on the likely injurious effects of future dumping in the absence of measures.

Both BHP and Rio Tinto refer to Comsteel as having monopolistic market power, while at the same time providing reasons why Comsteel is less competitive than its competitors. The commission accepts that Comsteel is the only manufacturer of railway wheels in Australia, but does not accept that Comsteel maintains monopolistic market power given that it is in direct competition with another supplier of the goods and that supplier has held a larger market share since at least 2018 (as detailed in chapter 5.4.2). As noted above, the commission's pricing and profitability analysis indicated that the Australian industry is supplying purchasers (that have previously purchased dumped railway wheels from China) at, or below, cost to make and sell. As detailed in chapter 5.5 above, railway wheels have not been a profitable enterprise for the Australian industry in recent years. These observations are not consistent with an entity exercising monopolistic market power.

While the commission does not accept BHP and Rio Tinto's characterisation of Comsteel as a monopolistic market power, Comsteel's position as the only manufacturer of the goods in Australia may provide some competitive advantages should its customers wish to support domestic industry. It is evident, however, from the forms of injury experienced by Comsteel in the original investigation (and subsequently) that some of its Australian customers are willing to take advantage of the cost savings associated with the importation of dumped goods to the economic detriment of the Australian industry.

Rio Tinto also claimed that Comsteel enjoys 'preferential treatment' in the Australian market. Specifically, Rio Tinto claim that:

- local iron ore operators dedicate resources to ensuring Australian industry remains in operation despite producing a more expensive and lower quality product
- the Australian industry purchases Rio Tinto's end-of-life wheels without a competitive pricing process, a benefit not available to foreign suppliers
- Australian industry may be issued additional sales outside of competitive tender, a benefit not available to foreign suppliers.

Rio Tinto does not quantify the magnitude of these claimed benefits and it is not clear that these practices are specifically undertaken to provide a benefit or preference to Comsteel. The commission notes from its pricing analysis in chapter 7.7.2 above that the Australian industry's prices were undercut by dumped imports during the original investigation and the inquiry period. Rio Tinto's claims do not detract from the material injury likely to be caused by dumped goods.

Rio Tinto further submitted that there are several factors which support the greater cost effectiveness of the Chinese producers relative to the Australian industry, and which provide a more compelling cause for injury than the alleged dumping.[81] These factors include MTM's investments in more efficient technologies, lower labour costs and higher productivity of Chinese entities and the economies of scale available to Chinese manufacturers.

[81] EPR 632, document number 6.

The commission accepts that overseas manufacturers may enjoy a competitive advantage relative to the Australian industry due to a range of potential factors, including lower costs of labour, higher levels of productivity, greater levels of automation, more efficient business processes and/or the benefits of economies of scale. Noting that overseas manufacturers may enjoy competitive advantages, the Commissioner is nonetheless preliminarily satisfied that the expiration of the measures applying to railway wheels exported to Australia from China would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

8 NON-INJURIOUS PRICE

8.1 Assessment of the non-injurious price

The NIP is relevant to the Minister's consideration of whether to apply a lesser amount of duty (lesser duty rule).

Section 269TACA defines the NIP as 'the minimum price necessary to prevent the injury, or a recurrence of the injury' caused by the dumped or subsidised goods, the subject of a dumping duty notice or a countervailing duty notice. As a matter of practice, the commission will generally derive the NIP from the Australian industry's unsuppressed selling price (USP).

8.2 Legislative framework

Where the Minister is required to determine the IDD, sections 8(5) and (5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (Cth) (the Dumping Duty Act) apply. Where the Minister is required to determine both ICD and IDD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

Sections 8(5B), 8(5BA) and 10(3D) of the Dumping Duty Act require the Minister to have regard to the 'lesser duty rule' when determining the ICD and IDD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. In respect of concurrent dumping and countervailing notices, the lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty such that the sum of the export price (of the goods ascertained for the purposes of the notices), the ICD and the IDD, do not exceed the NIP. However, pursuant to sections 8(5BAA), 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances (exceptions) apply:[82]

- the normal value of the goods was not ascertained under section 269TAC(1) of the Act because of the operation of section 269TAC(2)(a)(ii)
- there is an Australian industry in respect of like goods that consists of at least 2 small-medium enterprises, whether or not that industry consists of other enterprises[83]
- if an exporter of the goods has received a countervailing subsidy in respect of the goods – the exporter's country has not complied with article 25 of the World Trade Organization (WTO) *Agreement on Subsidies and Countervailing Measures*[84] for the compliance period.

Where any of the above exceptions apply, the Minister is not required to have mandatory consideration of the lesser duty rule, but may still wish to exercise a discretion to do so.

---

[82] Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty and sections 10(3DA)(a) to (c) of the Dumping Duty Act concern the calculation of countervailing duty.

[83] As defined in the *Customs (Definition of 'small-medium enterprise') Determination 2013*.

[84] *Marrakesh Agreement Establishing the World Trade Organization*, opened for signature 15 April 1994, 1867 UNTS 3 (entered into force 1 January 1995) annex 1A ('*Agreement on Subsidies and Countervailing Measures*').

8.3 Lesser duty rule exceptions

For exporters from China subject to the anti-dumping measures, the commission does not consider that the relevant exceptions in the Dumping Duty Act apply because:

- the operation of section 269TAC(2)(a)(ii) did not prevent the normal value from being ascertained under section 269TAC(1)
- the Australian industry does not consist of at least 2 small-medium enterprises.

The commission notes the that no countervailing measures apply to railway wheels exported from China and therefore the third exception is not relevant.

On the basis that no exceptions apply, the Minister must consider the desirability of applying the lesser duty rule for all exporters subject to the anti-dumping measures.

8.4 Unsuppressed selling price

The legislation does not prescribe a method of calculating a NIP, but there are several methods outlined in the Manual.[85] The commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This commission refers to this price as the USP.

The Manual provides that the commission will normally use the following approaches, in order of preference, for establishing a USP, subject to the facts of the case:

- Australian industry's selling prices in a period unaffected by dumping
- a constructed USP approach, constructing the USP using the Australian industry's CTMS and adding a reasonable amount for profit
- selling prices of undumped imports in the Australian market.

In the original investigation, the commission determined the USP by using the Australian industry's CTMS in 2017 plus the percentage profit achieved by Comsteel in 2016, a period when the market was unaffected by dumping.

In this inquiry, the commission further considers that the presence of significant volumes of dumped imports in the Australian market affects the pricing in the Australian market. Therefore, consistent with the approach taken in the original investigation, the commission has established a USP using the constructed approach, having regard to:

- the weighted average CTMS for Comsteel in the inquiry period
- the percentage profit achieved by Comsteel in 2016, a period when the market was unaffected by dumping.

8.5 Non-injurious price

The Commissioner has calculated a NIP by deducting from the USP the costs incurred in transporting the goods from an export FOB point to the relevant level of trade in Australia. The deductions include overseas freight, insurance, into-store costs and amounts for importer expenses.

---

[85] The Manual, p 138.

The commission's NIP calculation is at **Confidential Attachment 35.**

8.6 Commission's preliminary assessment

The Commissioner compared the NIP with the calculated weighted average normal values of the cooperative exporter from China. The Commissioner determined that the NIP was not less than the normal value. As a result, the NIP should not be the operative measure for exports from China.

Accordingly, the Commissioner recommends that measures be imposed in relation to railway wheels exported to Australia from China at the full dumping margin.

The Commissioner's calculation of USP and NIP is at **Confidential Attachment 7**.

9 FORM OF MEASURES

9.1 Preliminary findings and recommendations

Consistent with the findings in the original investigation, the Commissioner considers the IDD payable on railway wheels exported from China should be calculated using the combination fixed and variable duty method.

In relation to France, as the Commissioner proposes to recommend the measures applying to imports from France be allowed to cease to apply, the form of measures has not been considered.

9.2 Legislative framework

Regulation 5 of *Customs Tariff (Anti-Dumping) Regulation 2013* prescribes the methods available to the Minister for working out IDD payable. The methods are:

- fixed duty method ($X per tonne)
- floor price duty method
- combination duty method
- ad valorem duty method (that is, a percentage of the export price).

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. More detail on the nature and operation of the various forms of duty are contained in the *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines).

9.3 Proposed form of measures and effective rates of duty

The Commissioner, in considering which form of measures to use, has had regard to the Guidelines, as well as relevant factors in the railway wheel market

The Guidelines set out issues to be considered when determining the form of duties. The various forms of dumping duty available all have the purpose of removing the injurious effects of the dumping however, as noted above, certain forms of duty will better suit particular circumstances. The Guidelines list the key advantages and disadvantages of each form of duty.

The floor price method can limit the negative effect of price increases in the goods that are associated with the ad valorem duty method. It acts to prevent price manipulation by the exporter such as where they artificially decrease their export price under the ad valorem duty method which would decrease the amount of duty paid. A disadvantage is that a floor price can quickly become out-of-date and in a rising market become ineffective. This duty method may not suit the situation where there are many models or types of good with significantly different prices.

The combination duty method is considered appropriate where circumvention behaviour is likely (particularly because of related party dealings), where complex company structures exist between related parties, and where there has been a proven case of price manipulation in the market. Conversely, the combination duty method is less suitable in

circumstances where there are many model types of the goods with a wide price range or where a falling market exists.

The ad valorem duty method is one of the simplest and easiest forms to administer when delivering the intended protective effect. This method is also common in other jurisdictions, is similar to other types of Customs duties, and is suitable where there are many models or types or where the market prices of goods fluctuate over time. The ad valorem duty method may also require fewer duty assessments and reviews than other duty methods. However, the ad valorem duty method has a potential disadvantage in that export prices might be lowered to abrogate the intended effects of the duty.

Having regard to the various advantages and disadvantages associated with each method of calculating IDD payable, the Commissioner considers that, in the case of railway wheels, the combination fixed and variable duty method is the most appropriate form of duty. This is on the basis that the various models of the goods are similar and do not exhibit a wide price range and a falling market does not presently exist.

10 PROPOSED RECOMMENDATIONS

10.1 Conclusion

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2), the Commissioner is preliminarily satisfied that the expiration of the measures applying to railway wheels exported to Australia from:

- China would **likely** lead to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent
- France would **not likely** lead to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

10.2 China

The Commissioner considers that the available evidence supports a finding that, in the absence of measures:

- exports from China would be likely to continue
- exports from China are likely to be dumped and
- material injury to the Australian industry would likely recur.

Accordingly, the Commissioner is preliminarily satisfied that the expiration of the measures applying to the goods exported from China would lead, or would be likely to lead, to a continuation of the material injury that the measures are intended to prevent.

10.3 France

The Commissioner considers that, should the measures cease to apply to France, exports from France are not likely.

As a result, the Commissioner is not satisfied that the expiration of the measures as they relate to exporters from France, would lead, or would be likely to lead, to a continuation or recurrence of the dumping. It follows from this finding that the Commissioner has not considered whether material injury is likely to continue or recur if the measures cease to apply to France.

10.4 Recommendations

Based on the evidence currently available, the Commissioner proposes to recommend that the Minister **declare**:

- in accordance with subsection 269ZHG(1)(b), that they decide to secure the continuation of the anti-dumping measures in relation to exports from China only.

Based on the evidence currently available, the Commissioner proposes to recommend that the Minister **determine**:

- pursuant to section 269ZHG(4)(a)(ii) that the dumping duty notice continues in force after 16 July 2024 but that, after that day, it ceases to apply to exporters of the goods from France

- in accordance with subsection 269ZHG(4)(a)(iii), that the dumping duty notice continues in force after 16 July 2024 but that, after that day, the notice have effect in relation to exporters in China as if the Minister had fixed different specified variable factors relevant to the determination of duty.

11 APPENDICES AND ATTACHMENTS

Appendix A	Assessment of market costs
Appendix B	Constructed normal values – China
Appendix C	Adjustments to normal value assessment
Appendix D	Benchmark data assessment
Confidential Appendix E	Variable factor details
Confidential Appendix F	Profitability analysis
Confidential Attachment 1	Australian market
Confidential Attachment 2	Economic Condition of Australian industry
Confidential Attachment 3	MTM – variable factors
Confidential Attachment 4	All other exporters – variable factors
Confidential Attachment 5	Will exports continue
Confidential Attachment 6	Will injury continue
Confidential Attachment 7	Calculation of USP and NIP
Confidential Attachment 8	Benchmark data obtained
Confidential Attachment 9	Analysis of steel billet prices

APPENDIX A PRELIMINARY ASSESSMENT OF CHINESE DOMESTIC MARKET CONDITIONS

A1 Introduction

Comsteel submitted that a particular market situation for railway wheels exists in China due to the GOC's influence in the iron and steel market. Comsteel submitted that normal values cannot be determined under section 269TAC(1) of the Act.

This appendix sets out the commission's preliminary assessment of the market conditions in relation to those claims. The analysis and preliminary conclusions in this appendix, Appendix A, informs the commission's assessment of the cost of production in China, at chapter B3.2 of Appendix B. The commission has also taken this analysis into account in scrutinising what may be an appropriate benchmark, at chapters B4.1 and B5, and in assessing claims of comparative advantage at chapter B4.5.4.

The commission notes its preliminary assessment that MTM did not have sales of like goods in the ordinary course trade for the determination of the normal value under section 269TAC(1). The commission has therefore not separately assessed whether the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under section 269TAC(1).

In this assessment, 'GOC' refers to all levels of government in China, unless otherwise specified. Similarly, the commission has referred to Chinese state-owned and state-invested enterprises collectively as 'SOEs'.

The commission's examination of the evidence and analysis is detailed below.

A2 Submissions received in relation to market conditions affecting the costs in China and the market situation

Rio Tinto claims

Rio Tinto claimed that a more compelling argument for reduced costs for Chinese steel products related to China's economies of scale, technical progress and superior equipment and investment rather than government interference.[86] Rio Tinto also submitted that that it was private steel manufacturers rapid growth, accession to the WTO and innovation that drove China's rapid expansion and competitiveness, leaving limited room for government influence to dictate pricing indices.

Rio Tinto further claimed that contemporary pricing in China was based on the 'Steel price index' and the China Iron and Steel Association index, which reflect prices of steel products across the Chinese market. It was claimed that these prices reflected averages of raw materials, supply and demand, and market costs. Rio Tinto claimed these indices provide evidence that Chinese pricing follows global market trends rather government intervention.

[86] EPR 632, document number 6.

In response to the Rio Tinto submission, Comsteel referenced continuing excess capacity, increasing Chinese exports and alleged continued non reporting of subsidies.[87] Comsteel further submitted that Rio Tinto's reference to steel price indexes reference prices affected by the particular market situations in each of those markets, which would be higher in the absence of the particular market situations.

GOC claims

The GOC's submission addressed claims made by Comsteel in its application and the commission's findings in REP 466.[88] Specifically, the GOC claimed the following:

- The allegations by Comsteel that government distortions were not normal and ordinary and the commission's findings in REP 466 were contrary to the reality. The GOC [had previously provided information] indicating the absence of government intervention and the competitive nature of the Chinese market. Specifically:
    - raw material inputs are all determined without any mandatory intervention from the GOC – any price difference between Australian products and Chinese products are principally due to comparative advantage and investment in new equipment
    - the functions of the GOC's departments and branches are no different to that of government agencies in other countries
    - Comsteel provided no new information in its application for the continuation inquiry to prove the GOC had been intervening in the Chinese Steel and raw material markets.

- The commission's reasoning in REP 466 was 'capricious', 'confused' and 'failed to establish a causal link' between the government influence and the restriction of competition. As examples, the GOC referenced the following findings in REP 466:
    - REP 466 paradoxically argued that attempts to restructure the steel industry to manage excess capacity, over supply and environmental concerns was evidence of the GOC's influence. However, REP 466 also claimed that the GOC's attempts to address structural imbalances had had limited success and that the desire to replace old with new plants had constrained the GOC's attempts to address overcapacity.
    - Even if government influence existed for sake of the argument, the countervailing investigation in REP 466 had been terminated with a de minimis (0.6%) subsidy margin. From the *de minimis* determination, it can be concluded that the relevant policies of the GOC had little impact and had not distorted the market.
    - The reliance on French billet purchase prices to determine that the Chinese billet prices were significantly lower than a competitive market price was not based on positive evidence and offered no consideration of factors affecting prices. These factors included raw materials, production technology, labour costs and different supply-demand conditions.
    - REP 466 failed to duly consider the GOC's legitimate need to safeguard public interest. These included upgrading industry structure and product

[87] EPR 632, document number 11.
[88] EPR 632, document number 10.

mixes, energy conservation, emission reductions and environmental protection. The GOC stated that these legitimate needs should be considered in the analysis.

- The GOC further referenced the findings in the grinding balls continuation inquiry and the decision to not continue measures.

Comsteel claims

Comsteel, in response to the GOC's submission, disagreed with the GOC's comments.[89] Specifically, Comsteel stated:

- representations by the American Iron and Steel Institute to the Office of the United States Trade Representative in 2023 were about the same trade distortions identified in REP 466
- the findings in REP 466 continue to be relevant in 2023 as the GOC has not altered its trade influencing policies and practices that were evident in the original investigation.
- in reference to the GOC's claims about the *de minimis* subsidy findings in REP 466, Comsteel claimed that the GOC failed to consider that GOC interventions are such that they suppress Chinese costs and selling prices and that this is only evident when compared to external costs
- in relation to the claims regarding consistency with article 2.2.1.1 of the *Anti-Dumping Agreement*, Comsteel noted that GOC's appeal to the WTO Dispute Settlement Body had not been concluded
- the findings in the continuation inquiry for grinding balls stand alone from the current inquiry

Comsteel provided additional information regarding distortions in the Chinese market in two further submissions.[90] These are summarised below.

- MTM and its parent are recognised as high-tech enterprises and consequently receive a preferential rate of company tax of 15% (compared with the general 25% rate). These preferential tax rates were applied after the original investigation.
- MTM is ultimately owned by the State-Owned Assets Supervision and Administration Commission (SASAC).
- SASAC has been involved in the transfer of equity in MTM's parent entity (the Baowu Steel Group). This was disclosed in MIS's 2022 financial report.[91] This confirms the continued intervention by the GOC in the Chinese steel industry.
- MIS benefits from a broad range of subsidies, including:
    - 'Subsidy funds for "No. 4 blast furnace"'
    - 'Technological transformation fund for phase II silicon steel'
    - 'Subsidy for the hot-rolled 1580 project'
    - 'New-zone thermal power plant CCPP system engineering'
    - 'EMU steel wheel production line project'

[89] EPR 632, document number 14.
[90] EPR 632, document numbers 18, 19.
[91] MIS, *Maanshan Iron & Steel Co Ltd 2022 Financial Report*, MIS website, 2023, accessed 25 March 2024.

    - ‘Environmental subsidy funds for gas desulphurisation and 136MW thermal power’
    - ‘Subsidy for thin plate project’
    - ‘Environmental funds for desulphurisation project of 3rd iron plant’s flue gas (BOT [build-operate-transfer])’
    - ‘Alloy bar production line refinement project of electric furnace plant’
    - ‘Subsidy for Maanshan railway industry’.
- Recent publications evidence continued distortions and GOC influences, including:
    - a new steel report by Orbis from October 2023 regarding Chinese steel utilisation rates
    - statements from the 93rd session of the Organisation for Economic Co-operation and Development (OECD) steel committee regrading global steel markets and capacity challenges
    - a news article from Reuters regarding iron ore imports into China
    - CRU Group analysis evidencing steel producers in China operating at losses.
- MTM has not demonstrated in its REQ that there have been any evident changes in the GOC’s policies and practices.

The commission has considered the submissions from the GOC, Comsteel and Rio Tinto in its assessment. This assessment also includes analysis of the findings of previous cases conducted by the commission, verified data from MIS and MTM and desktop research. This commission’s analysis is detailed below.

A3 Assessing the market conditions in this inquiry

The largest cost component that MTM incurred to produce the goods was steel billet. Steel billet also comprised almost all of the total raw material costs incurred.

As mentioned in chapter 6 of this SEF, MTM purchased all steel billet from its parent entity and billet manufacturer MIS. MIS produced the steel billet from steel scrap and molten iron. MIS produced the molten iron from intermediary products, with the largest costs originating from iron ore, coking coal and alloy purchases.

The commission has considered information about conditions in the domestic Chinese markets for these products:

- products of the steel industry generally – noting the team has also considered the degree to which market conditions in this industry may affect the sales price and production cost of the goods.
- steel billet used to produce railway wheels, including the grade of billet that MTM used to produce the goods.
- freight carriage railway wheels sold, including the like goods.

Chapter A4 of this appendix discusses market conditions in the Chinese domestic steel industry generally. Chapter A5 of this appendix discusses how market conditions apply to production and sale of freight carriage railway wheels and the corresponding specialised type of steel billet used to produce the wheels.

The commission considered information relating to the steel industry and information about the Chinese railway wheel market, where available. The commission notes that the GOC did not provide a response to the government questionnaire but provided a submission about the claimed 'particular market situation'.[92] The commission has summarised the GOC's submission in chapter A2 of this appendix.

The commission sought a variety of information and evidence from the GOC, including information on GOC involvement and policies in the steel market generally and the railway steel and steel billet sectors in particular, the operation of price signals in these sectors, and GOC measures that may or may not be affecting these sectors. The GOC did not cooperate with this request for information. The commission notes that the GOC was informed that, if it elected not respond to the questionnaire, the commission may be required to rely on information supplied by other parties, previous findings and information before the commission in previous investigations and any other available information which the Commissioner considers relevant.

A4 The GOC role in the Chinese steel market – the sector for the goods

A4.1 Overview

The Chinese economy in general has undergone significant economic structural reforms to transition towards greater liberalisation of trade and foreign direct investment inflows and outflows. However, the role of government at all levels in the Chinese economy, controlling trade and foreign direct investment liberalisation for social and economic purposes, has created a hybrid system in China where decisions of the market are heavily influenced by government as opposed to ordinary conditions of competition.

Chinese firms selling and purchasing in China's steel markets set prices and make purchasing decisions that are influenced by the directives and policies of the GOC. These conditions are created in part by the prevalence of state-owned enterprises (SOEs) that reflect the economic, social and fiscal goals of the GOC, and impact the conditions of competition and pricing for private firms.

A4.2 GOC policies and initiatives influencing Chinese steel markets

The Chinese steel industry is of significant importance to China's national, economic and social security. Growth in this industry has been dependent on structured investment in, and funding of, fixed assets in SOE steel mills, steel production output for massive infrastructure and urbanisation projects supported by the GOC and export-oriented trade.

Summary of GOC interventions

In order to achieve such significant steel manufacturing output to achieve supply-side economic growth and reform, the GOC manages an array of subsidy programs,[93] soft

[92] EPR 632, document number 10.

[93] These subsidy programs affect individual exporters differently depending on the level of subsidy they receive.

lending and credit facilities, preferential loans, land grants and capacity controls to drive domestic output and consumption of steel.

In recent years, China's steel industry has continued to play an important role in its economic structural reform and, as such, changes in response to global issues and concerns are slow and incremental. The commission understands that the GOC prefers incremental reform so as not to induce 'shock' changes and sudden reforms in its steel industry, which has the potential to risk the livelihoods of directly employed workers and workers employed in related industries.

Specific initiatives, implemented to address imbalances in the Chinese steel market broadly, include the Central Government's supply-side reform initiatives and the January 2016 *Opinions of the State Council on resolving excess production capacity and achieving development out of difficulties in the steel industry*.[94] The 2016 GOC Opinions proposed reducing SOE steel mill capacity by 100 to 150 million tonnes by 2020.[95] A joint news release from the GOC Ministry of Industry and Information Technology (MIIT) and National Development and Reform Committee (NDRC) also stated China had reduced its steel production by 3% year-on-year in 2021 and 6.5% year-on-year in 2022.[96]

In February 2016, the Central Government also pledged a CNY 100 billion fund for employee compensation, social security payments and plant closure incentives in the coal and steel sectors.[97] In addition, the 2016 GOC Opinions had forbidden the registration of new production capacity in any form and require that any production that does not meet environmental, energy consumption, quality, safety or technical standards be taken offline.[98] Capacity management measures utilised by the GOC include targets to limit steel production in 2023 to the levels recorded in 2022.[99] Other examples of capacity management measures announced include tightening bank lending to smaller mills, industry consolidation through mergers and acquisitions, and use of stricter environmental regulations to forcibly shut down capacity.[100]

The commission recognises the GOC's attempts to restructure and reorganise the industry to manage excess capacity, oversupply and environmental concerns. Yet although these efforts are targeted at correcting current imbalances and resulting distortions, the commission in fact considers them to be evidence of the extent of the

---

[94] State Council, *Opinions of the State Council on resolving excess production capacity and achieving development out of difficulties in the steel industry*, notice number 2016(6), index number 000014349/2016-00013, State Council, GOC, 1 February 2016, accessed 25 March 2024.

[95] H Liu and L Song, 'Issues and prospects for the restructuring of China's steel industry' in L Song, R Garnaut, C Fang and L Johnston (eds), *China's new sources of economic growth: vol 1*, ANU Press, 2016, doi:10.22459/CNSEG.07.2016, p 338.

[96] T Zhou, J Gosens, H Xu and F Jotzo, *China's Green steel plans: near-term policy challenges and Australia–China links in decarbonisation*, Institute for Climate, Energy & Disaster Solutions, Australian National University, 2 August 2022, p 8, accessed 25 March 2024.

[97] L Brun, *Overcapacity in steel: China's role in a global problem*, Center on Globalization, Governance & Competitiveness, Duke University, 2016, doi:10.13140/RG.2.2.11923.48161, p 38.

[98] State Council, *Opinions of the State Council on resolving excess production capacity and achieving development out of difficulties in the steel industry*.

[99] D Patton, 'Some Chinese steel mills ordered to cap output this year – sources', *Reuters*, 25 July 2023, accessed 25 March 2024.

[100] S&P Global, 'Global market outlook', *Platts Steel Business Briefing*, S&P Global Insights, January 2016, p 14.

GOC's involvement within and influence over the broader steel industry, including during the inquiry period. As explained further below, the commission finds that these measures have not resulted in the exit of loss-making firms from the Chinese steel market.

One key concern with inoperative steel mills ordered by the GOC to cease production for periods of time, also referred to as 'zombie mills', is that they reflect capacity that is idle rather than capacity permanently removed from the market. This means that, while the temporary removal of capacity helps moves toward competitive market conditions, those same plants have potential to return to production when higher steel prices prevail, leading to further distortions.[101] An example of this situation relates to a significant amount of capacity removed in 2016, which was already idle. The real capacity permanently removed was estimated to be in the range of 12 million to 20 million tonnes per year, compared to the reported 65 million tonnes.[102] As at April 2017, it was reported that China had an estimated 339 million tonnes of overcapacity, and favourable market conditions would likely extend the lifespan of zombie companies, which delayed the GOC's steel industry reforms.[103] In February 2024, Chinese news media reported that 75 of 201 steel production companies in China were inoperative, reflecting 115 blast furnaces not operating at that time.[104]

As the commission understands it, the presence of loss-making firms (including 'zombie' firms) in the Chinese steel market is the result of overcapacity which has, in turn, led to over-production that depreciates prices. Overcapacity, in turn, is a function of various aspects of GOC influence in the Chinese steel market. Furthermore, through its capacity reduction efforts, the GOC policies directly influence the steel sector in terms of both production output and prices.

In addition, local governments have not fully implemented the central directives on capacity reduction, with reports that steel mills engage in 'capacity swapping' by moving capacity to more favourable regions, thereby maintaining or increasing the mill's capacity.[105] The commission further notes that recent research articles continue to identify overcapacity in coal production. Causes identified include through local officials' GDP-oriented performance system and promotional pressure where coal-based cities tend to persistently develop coal mining and production under the restriction of a single industrial structure, resulting in more coal production.[106]

---

[101] S&P Global, 'Global Market Outlook', *Platts Steel Business Briefing*, S&P Global Insights, January 2017, p 10.

[102] S&P Global, 'Global Market Outlook', January 2017.

[103] EY Lee and A Dai, 'China's steel sector: supply reform', *DBS Asian Insights*, April 2017, accessed 25 March 2024, pp 5, 9. The estimated overcapacity is based on figures Lee and Dai sourced from the GOC for crude steel capacity and capacity utilisation.

[104] S Chen, 'Ten years of steel production capacity control: Why are we shouting "surplus" every year?', *China Business News*, 5 February 2024, accessed 19 March 2024.

[105] M Xu and D Patton, 'China to tighten steel capacity swapping, boost domestic iron ore output', *Reuters*, 9 May 2019, accessed 25 March 2024; M Xu and T Daly, 'China to halt capacity swaps in steel industry from January 24', *Reuters*, 23 January 2020, accessed 25 March 2024.

[106] Q Zhang, XL Etienne and Z Wang, 'Reducing coal overcapacity in China: a new perspective of optimizing local officials' promotion system', *Environmental Science and Pollution Research*, 2022, 29:90364–90377, doi:10.1007/s11356-022-22010-2.

The effectiveness of the GOC's attempts to address overcapacity through mergers and acquisitions have been constrained by:

- the replacement of older mills with new, larger and more efficient mills
- closing smaller mills to offset the commissioning of new, larger mills.

While this may eventually improve the industry's structure over the longer term, its impact to date has been to increase production and exacerbate the existing structural imbalances. For example, the China Baowu Steel Group Corporation Limited (China Baowu) announced in 2016 that it would decommission 2.5 million tonnes of capacity to address overcapacity. However, it also commissioned 9 million tonnes of new capacity at its Zhanjiang facility.[107] In 2019, China Baowu also increased its annual steel production capacity by 20 million tonnes after an agreement to merge with Magang (Group) Holding Co Ltd (Masteel Group).[108] Noting the commission verified 2 subsidiaries of China Baowu and Masteel Group in this inquiry (MTM and MIS), the commission also discusses these companies in chapter A5 of this appendix.

In citing the GOC's ongoing interventions within the domestic steel industry, it is the commission's view that these attempts to address existing structural imbalances have had limited success to date and further support the commission's view that the GOC, through its policies, directly influences the domestic steel sector. Constraints in the effectiveness of these initiatives not only relate to the extent of the existing imbalances in the industry, but also difficulties in coordinating activities between central, provincial and local levels of government. The resistance of provincial and local governments to closing mills relates to their role as major employers, sources of tax revenue and providers of social services within their respective regions.[109] Specific examples of these issues include the reliance of their tax systems on business revenue (including production-based VAT) and gross domestic product-oriented performance measures which encourage over-investment.[110]

Although the explicitly published policies that underpin these interventions by the GOC have expired according to their original dating, the commission has not been able to find nor has it received any information to indicate that they do not continue to form the basis for the GOC's policy in regulating the steel sector. Such information was requested within the questionnaire that was sent to the GOC, to which the GOC did not respond.

A4.3 Industry planning guidelines and directives

The central body responsible for developing and administering planning directives and providing overarching approval of large-scale investment projects within China is the National Development and Reform Commission (NDRC). It is the commission's view that directives from the NDRC, as the GOC's central planning authority, would thus be central

---

[107] S&P Global, 'Global market outlook', *Platts Steel Business Briefing*, S&P Global Insights, June 2016, p 11.
[108] A Galbraith and M Meng, 'China Baowu Steel to take majority stake in rival Magang', *Reuters*, 2 June 2019, accessed 25 March 2024. Note that 'Magang' approximates the Mandarin Chinese pronunciation of 'Masteel'. In English, media outlets and other organisations refer to 'Magang' and 'Masteel' interchangeably.
[109] S&P Global, 'Global market outlook', *Platts Steel Business Briefing*, S&P Global Insights, April 2016, p 16.
[110] Brun, Overcapacity in steel: China's role in a global problem, p 29.

to both industry specific 'five-year plans' and the planning decisions of all levels of government more generally. More explicit enforcement mechanisms are reflected in the *Notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities and Guidelines*.[111] Mechanisms to address non-compliance include:

- revoking of pollutant discharge permits
- restrictions on financial institutions providing new credit support
- restrictions on examination and approval of new investment projects
- restrictions on approval of new land for use by the enterprise
- restrictions on issuing of new, and cancelling of existing, production licenses.

According to reports, the *Notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities and Guidelines* states that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments. More implicit enforcement mechanisms are reflected by the regulatory powers of bodies, such as the MIIT. It is the commission's understanding that such bodies maintain lists of companies that are deemed to be either compliant or non-compliant with national standards on production, environmental protection, energy efficiency and safety. Those deemed non-compliant are to be closed down.[112]

It is the commission's view that the effectiveness of the above mentioned mechanisms are reflected in the responsiveness of industry groups and major companies to the GOC's various directives.

China released its 13th five-year plan for economic and social development on 15 March 2016.[113] This plan outlined China's goals, principles and targets for infrastructure, the environment, financial services, health and social and economic development for the 5 years to 2020. This plan had a strong emphasis on supply-side structural reform that promotes the upgrade of industrial structures, strengthening market-oriented reforms, reducing industrial capacity, inventory, financial leverage and costs, and correcting structural shortcomings.[114]

To support the Chinese steel industry's development in line with the 13th five-year plan, the MIIT developed the *Steel Industry Adjustment and Upgrade Plan (2016–2020)*.[115] This adjustment and upgrade plan proposed to raise the average annual growth rate of industrial added value from 5.4% in 2015 to 6% by 2020, raise the capacity utilisation rate

---

[111] State Council, *Notice of the State Council on further strengthening the elimination of backward production capacities*, notice number (2010)7, index number 000014349/2010-00027, State Council, GOC, 6 February 2010, accessed 25 March 2024 (the GOC Guidelines).

[112] Department of Industry, Innovation and Science (DIIS), Department of Industry, Innovation and Science, *Resources and Energy Quarterly: December quarter 2015*, Office of the Chief Economist, DIIS, Australian government, December 2015, p 47, accessed 25 March 2024.

[113] National People's Congress, *The 13th five-year plan for economic and social development of the People's Republic of China (2016–2020)*, Central Compilation & Translation Press, 7 December 2016, accessed 25 March 2024 (13th five-year plan). Note this citation links to the English translation on the NDRC's website.

[114] National People's Congress, 13th five-year-plan.

[115] MIIT, *Notice of the Ministry of Industry and Information Technology on issuing the Steel Industry Adjustment and Upgrade Plan (2016–2020)*, MIIT, GOC, notice number (2016)358, 28 October 2016, accessed 25 March 2024.

from 70% in 2015 to 80% by 2020, and raise the industrial concentration in top 10 producers from 34.2% in 2015 to 60% by 2020.[116] Examples of the Chinese steel industry's response to these directives was reflected in the restructuring of the Baowu Steel Group. As of 2022, Baowu Steel Group was the largest producer of crude steel, both in China and worldwide.[117]

China released its 14th five-year plan for national economic and social development on 11 March 2021.[118] The Plan outlined China's goals, principles and targets for infrastructure, the environment, financial services, health and social and economic development for the 5 years to 2025 with a strong emphasis on modernisation and decarbonisation of the manufacturing industry by promoting green developments by focusing on capping energy utilisation.[119]

There have been a number of GOC policies, plans and initiatives relevant to the China steel industry published within the last 20 years, including the *Steel Industry Development Policy* from 2005,[120] the *Blueprint for the Adjustment and Revitalisation of the Steel Industry* from 2009[121] and the *2011–2015 Development Plan for the Steel Industry* from 2011.[122] As these plans have ended, the commission's view is that these were largely superseded by further policies and plans.[123]

The commission summarises below some of the key themes and objectives of major GOC planning guidance and directives used to influence the structure of the Chinese steel industry.

1. *Steel Industry Adjustment Policy* (2005, revised in 2015)[124]
    - Upgrading product mix.
    - Rationalising steel production capacity.
    - Adjustments to improve organisational structures.

---

[116] MIIT, *Notice of the Ministry of Industry and Information Technology on issuing the Steel Industry Adjustment and Upgrade Plan (2016–2020)*. See also L Yan, 'China issues 13th five-year plan for the steel industry', China Subsidy Exchange blog, 22 November 2016, accessed 25 March 2024.

[117] World Steel Association, *Top steel-producing companies 2022/2021*, World Steel Association website, June 2023, accessed 25 March 2024.

[118] National People's Congress, *The 14th five-year plan for national economic and social development of the People's Republic of China and long-range objectives through the year 2035*, National People's Congress, GOC, 11 March 2021, accessed 25 March 2024 (14th five-year plan). Note this citation links to the English translation on the NDRC's website (files separated by chapter number).

[119] National People's Congress, 14th five-year plan.

[120] NDRC, *Steel industry development policy*, order number (2005)35, NRDC, GOC, 8 July 2005, accessed 25 March 2024.

[121] State Council, *Blueprint for the adjustment and revitalisation of the steel industry*, index number 000014349/2009-00099, State Council, GOC, 20 March 2009, accessed 25 March 2024.

[122] State Council, *Notice of the State Council on the Industrial Transformation and Upgrade Plan (2011–2015)*, notice number (2011)47, State Council, GOC, 30 December 2011, accessed 25 March 2024.

[123] Noting that some of the listed documents are over one decade old, the commission considers that this further demonstrates long term involvement of the GOC within the Chinese steel industry.

[124] MIIT, *Public solicitation of opinions on the 'Steel Industry Adjustment Policy' (2015 revision) (Draft for comments)*, State Council, GOC, 20 March 2015, accessed 25 March 2024. The GOC's official state news agency reported that the cited draft revision came into effect from 1 July 2015: Y Song (ed), 'The Ministry of Industry and Information Technology requires steel companies to establish a quality system for the entire production process', *Xinhua News Agency*, 27 May 2015, accessed 25 March 2024.

- 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.
- Lifting capacity utilisation rates to 80% by 2017.

2. *Notice of the State Council on accelerating the restructuring of industries with overcapacity* (2006)[125]

   - Promoting economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion.
   - Intensifying the implementation of industrial policies related to the iron and steel sector to strengthen the examination thereof and to improve them in practice.

3. *Guiding opinions of the General Office of the State Council on promoting the restructuring and reorganisation of central enterprises* (2016)[126]

   - SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach.
   - State-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programmes, to strengthen their operations, and allow non-state-owned capital to play a role, while ensuring the state-owned capital's leading position.
   - Related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, non-ferrous metal, shipping, construction materials, tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.

4. *Steel Industry Adjustment and Upgrade Plan* (2016 to 2020)[127]
   - Enacting supply-side reforms with removal of 100 to 150 million tonnes of capacity between 2016 and 2020.
   - Raising capacity utilisation rates to 80% by 2020.
   - Further industry consolidation through mergers, leading to 10 largest producers accounting for 60% of production by 2020.

---

[125] State Council, *Notice of the State Council on accelerating the restructuring of industries with overcapacity*, notice number (2006)11, index number 000014349/2006-00043, State Council, GOC, 12 March 2006, accessed 25 March 2024.

[126] State Council, *Guiding opinions of the General Office of the State Council on promoting the restructuring and reorganisation of central enterprises*, notice number (2016)56, index number 000014349/2016-00156, State Council, GOC, 17 July 2016, accessed 25 March 2024.

[127] MIIT, *Notice of the Ministry of Industry and Information Technology on issuing the steel industry adjustment and upgrade plan (2016–2020)*. See also J Zhang, J Liu, Y Gao and C Zhao, 'Green Development Efficiency and Its Influencing Factors in China's Iron and Steel Industry', *Sustainability*, 2021, 13(2):510, doi:10.3390/su13020510.

5. *Guiding opinions on accelerating the merger and acquisition and reorganisation in key industries* (2013)[128]

6. *Three-year action plan to win the Blue Sky War* (2018)[129]

7. *Work plan for stable growth of the steel industry* (August 2023)[130]

    - For 2023, maintaining supply and demand while also steadily growing fixed asset investment.
    - For 2024, growing industry value by more than 4% and improve the industry's development environment and structure.
    - Promoting corporate mergers and restructures.
    - Continuing to strength and improve the work of resolving excess production capacity in steel.

8. *Guiding opinions of 3 ministries and commissions on promoting high-quality development of the steel industry* (January 2022)[131]

    - Curbing increases to steel production capacity.
    - Promoting the elimination of 'backward' production capacity (production facilities that are below industry standard).
    - Promoting corporate mergers and restructures.
    - Accelerating the promotion of improved and upgraded quality of steel products in fields including advanced rail transit and automobiles.

In addition, broader industrial restructuring and reorganising directives of the GOC have an impact on the Chinese steel industry.[132]

In assessing the relevance of these planning guidelines and directives, the commission notes the importance of the GOC's national five-year plans, which provide the overarching framework for the industry and local government plans. Regarding industry specific planning guidelines and directives, the commission notes, but does not agree with, the GOC's previously expressed view that they are for guidance and are not

---

[128] MIIT, *Guiding opinions on accelerating the merger and acquisition and reorganisation in key industries*, notice number (2013)16, MIIT, GOC, 22 January 2013, accessed 25 March 2024.
[129] State Council, *Three-year action plan to win the Blue Sky War*, notice number (2018)22, index number 000014349/2018-00096, State Council, GOC, 27 June 2018, accessed 25 March 2024.
[130] MIIT, *Work Plan for Stable Growth of the Steel Industry*, notice number (2023)131, MIIT, GOC, 21 August 2023, accessed 25 March 2024.
[131] MIIT, NDRC and Ministry of Ecology and Environment, *Guiding opinions of 3 ministries and commissions on promoting high-quality development of the steel industry*, notice number (2022)6, MIIT, GOC, 20 January 2022, accessed 25 March 2024.
[132] For example: State Council, *Notice of the State Council approving and transmitting several opinions of the National Development and Reform Commission and other departments on curbing overcapacity and redundant construction in certain industries and guiding the healthy development of industries*, notice number (2009)38, index number 000014349/2013-00134, State Council, GOC, 26 September 2009, accessed 25 March 2024; State Council, *Guiding opinions of the State Council on resolving serious overcapacity conflicts*, notice number (2013)41, index number 000014349/2013-00134, State Council, GOC, 6 October 2013, accessed 25 March 2024; NDRC, *Guidance catalogue for industrial structural adjustments (2024 edition)*, notice number (2023)7, NDRC, GOC, 27 December 2023, accessed 25 March 2024.

enforceable.[133] Mechanisms through which the commission considers the GOC is able to enforce these guidelines and directives include the presence and role of SOEs within the broader steel industry, the role of the NDRC and explicit enforcement mechanisms. The GOC, where it is also the majority owner of an SOE, can exert its influence through the appointment of board directors and chief executives.[134]

SOEs' significant share of total Chinese steel production, and propensity to follow government guidance and directives, ensures that the GOC can influence broader trends in industry capacity and steel production. Similarly, the NDRC, through its dual role of developing planning guidelines and directives and approving large-scale investment projects, has the capacity to ensure that the broader objectives of the central government are implemented. Explicit enforcement mechanisms detailed within directives, such as the State Council *Notice on Further Strengthening the Elimination of Backward Production Capabilities and Guidelines*, includes a range of sanctions, such as revocation of pollutant discharge permits, restrictions on the provision of new credit support, restrictions on the approval of new investment projects, and restrictions on the issuing of new and cancelling of existing production licenses.[135]

A further example of the GOC's use of planning guidelines and policy directives to achieve its objective can be seen in the GOC's *Standard Conditions of Production and Operation of the Iron and Steel Industry*.[136] This document sets out the minimum requirements for production and operation in the Chinese steel industry. Firms are incentivised to comply with the standard conditions, as doing so provides the basis for policy support. In contrast, firms that do not conform are required to reform, and if they still fail to conform, must gradually exit the market. Based on the available evidence, the commission finds that decisions about levels of production in the Chinese steel market are often based on GOC policy goals as opposed to properly functioning price signals.

In the GOC questionnaire, the commission asked the GOC to provide a copy of its 13th and 14th five-year plans for national economic and social development. The commission also asked the GOC to describe:

- changes to GOC policies and practices that impact the railway wheel manufacturing industry as well as the iron and steel manufacturing industry, including changes to the text or implementation of national and state five-year plans as they concern the steel industry
- changes to GOC policy regarding steel industry adjustment and revitalisation
- changes to the various measures identified by the commission in earlier investigations and inquiries as implementing the goals and aims of GOC plans and policies.

---

[133] See the final report for dumping and countervailing subsidy investigation number 177: EPR 177, document number 416, p 123.

[134] D Zhang and O Freestone, 'China's unfinished state-owned enterprise reforms', *Economic roundup issue 2, 2013*, the Treasury, Australian Government, 2013, accessed 25 March 2024.

[135] See EPR 177, document number 416, p 128.

[136] MIIT, *Standard conditions of production and operation of the iron and steel industry*, notice number (2010)105, MIIT, GOC, 21 June 2010, accessed 25 March 2024. The commission has an English translation of this standard at EPR 177, document number 206 (titled 'Government of China – Attachment A11').

The GOC did not respond to this request for information.

A4.4 Role and operation of SOEs

China publicly adopted its 14th five-year plan for economic and social development on 12 March 2021.[137] The 14th five-year plan outlines China's goals, principles and targets for infrastructure, the environment, financial services, health and social and economic development for the five years to 2025. The 14th five-year plan has a strong emphasis on innovation, and a weaker emphasis on the modernisation of industrial infrastructure, the supply of finance and support for small and medium enterprises, all to the end of a 'manufacturing powerhouse' strategy, and notably includes mention of 'transforming and upgrading traditional industries', including steel industries. Although a new five-year plan is now in place, based on the available evidence, the commission consider that the effects of the various GOC plans and policies relating to the steel industry outlined above continued in the inquiry period.

The Chinese economy is commonly described as a 'socialist market economy' as it features dominant SOEs co-existing with market capitalism and private enterprise.[138] Commentary provided with the 2019 Fortune 500 list indicates that of the 129 Chinese companies listed that year, SOEs accounted for 80% of the revenue earned, an increase of 4% on the previous year.[139]

The full extent of state ownership and control in the steel sector can be difficult to quantify, due to the ownership structure and classifications of state enterprises.[140] The commission had regard to data from the world steel association and information publicly available, to assess the significance of SOEs in the Chinese steel sector.

The commission estimates that for the largest 10 Chinese steel firms by production (outlined below), greater than 70% of steel production was by Chinese SOEs. Steel production by these 6 SOEs alone accounted for greater than 30% of total crude steel production in China in 2022.

Company / Group	State-owned	Crude steel production (million MT)[141]
China Baowu Group	Yes	131.84
Ansteel Group	Yes	55.65
Shagang Group	No	41.45

[137] National People's Congress, 14th five-year plan.
[138] Asialink Business, *China's economy*, Asialink Business website, n.d., accessed 25 March 2024.
[139] Y Zheng, 'In a first, China has more companies on Fortune Global 500 list than the US', *South China Morning Post*, 22 July 2019, accessed 25 March 2024.
[140] G Mattera and F Silva, 'State enterprises in the steel sector', *OECD Science, Technology and Industry Papers*, 9 September 2018, doi:10.1787/2a8ad9cd-en, pp 6–7 (OECD steel SOEs report).
[141] World Steel Association, *World steel in figures 2023*, World Steel Association website, 18 May 2023, accessed 25 March 2024.

Company / Group	State-owned	Crude steel production (million MT)[141]
HBIS Group	Yes	41.00
Jianlong Group	No	36.56
Shougang Group	Yes	33.82
Shandong Steel Group	Yes	29.42
Delong Steel Group	No	27.90
Hunan Steel Group	Yes	26.43
Fangda Steel	No	19.70
Total (SOEs in China top 10)		**318.16**
Total (China top 10)		**443.77**
Total China		**1,018.00**

Table 8: The largest 10 Chinese steel firms by production (million MT)

The World Bank has found that:

> *state enterprises have close connections with the Chinese government. SOEs are more likely to enjoy preferential access to bank finance and other important inputs, privileged access to business opportunities, and even protection against competition.*[142]

While the commission does not consider that the presence of these entities alone causes market distortions, it does consider that the presence of these entities is likely to result in adherence with the GOC's plans and directives. The commission also considers that the support provided to these entities by the GOC has enabled many of them to be operated on non-commercial terms for extended periods, significantly impacting supply and pricing conditions within the domestic Chinese market.[143] The corollary of the various forms of support, which are described further below, is that the 'normal commercial pressures for companies to operate efficiently and for poor performing firms to cut back or cease

[142] World Bank and the Development Research Center of the State Council, People's Republic of China, *China 2030:* building a modern, harmonious, and creative society, World Bank, Washington DC, 2013, doi:10.1596/978-0-8213-9545-5, p 25.

[143] DIIS, *Analysis of steel and aluminium markets: report to the Commissioner of the Anti-Dumping Commission*, Anti-Dumping Commission, DIIS, Australian Government, 2016, accessed 25 March 2024, p 47 (*Commissioner's steel report*).

operations'[144] no longer apply, with an increase in 'companies which are making losses or unable to service their interest payment obligations but can still obtain loans'.[145]

An academic study found that 'the share of loss-making enterprises was 51 per cent' in the steelmaking sector in 2015, and '[f]or some enterprises, the losses have even exceeded the sum of depreciation, wages and interest—yet these firms have continued production', and that '[t]hese enterprises can in fact operate into the long term while making continuous losses' through various forms of GOC support.[146] According to this study, the selling costs for almost half of the enterprises in China's steelmaking industry exceeded their selling prices in 2015.[147] This study also found that SOEs were far more likely than private firms to be sustaining operating losses over prolonged periods.[148]

Examples of the support mechanisms that enabled SOEs to sustain ongoing operational losses include government subsidies, support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees) and loans from state-owned banks.[149] As discussed in chapter A4.2, the evidence indicates a prevalence of so-called 'zombie' firms in the Chinese steel sector – that is, firms that sustained prolonged operating losses in the steel sector and yet have not entered liquidation nor restructured. Such firms can continue operating through these kinds of support mechanisms.

These loss-making firms have also faced barriers to entering bankruptcy or liquidation despite continuing to make sales at unprofitable rates. This is because of the particular incentive structures pertaining to SOEs. For instance, according to one of the studies considered by the commission, transfers of shares in SOEs were not valid unless approved by SASAC which meant, in turn, that the 'inability to transfer ownership results in the ability of SOEs to generate losses for a long period without fear of bankruptcy, including the ability to engage in anticompetitive practices such as below-cost pricing without fear of falling equity prices or bankruptcy'.[150]

As another example, with respect to taxation, a study considered by the commission found that '[l]ocal governments receive the majority of their business tax revenues from a factory's production, not on profit', which incentivised local governments to deter

---

[144] DIIS, *Commissioner's steel report*, p 59.

[145] European Commission (EC), *Commission staff working document: on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations*, document no SWD(2017)483 final/2, EC, European Union Government, 20 December 2017, accessed 25 March 2024, p 252 (*EC report*).

[146] Liu and Song, 'Issues and prospects for the restructuring of China's steel industry', pp 343, 346, 349. The same has been found by various other studies: see, for example, OECD, *OECD economic surveys: China 2017*, OECD, 2017, doi:10.1787/eco_surveys-chn-2017-en, pp 40–41; EC, *EC report*, p 253. In the GOC questionnaire for this inquiry, the commission requested contemporary information directly relevant to these issues, such as, inter alia, the 'percentage of loss-making SOEs and SIEs in the HRC steel industry over the last 5 years' and details of 'any support provided by the GOC to loss-making enterprises in the HRC steel sector'. The GOC did not provide a response to the questionnaire.

[147] Liu and Song, 'Issues and prospects for the restructuring of China's steel industry', p 346.

[148] Liu and Song, 'Issues and prospects for the restructuring of China's steel industry', pp 345–350.

[149] Liu and Song, 'Issues and prospects for the restructuring of China's steel industry', p 348.

[150] Brun, *Overcapacity in steel: China's role in a global problem*, p 26. The commission requested contemporary information pertaining to the process for transferring shares in SOEs and SASAC involvement in the GOC questionnaire. The GOC did not respond.

bankruptcy.[151] Another academic study cited by the commission found that a 'policy of 'securing jobs' has been deeply entrenched in the running of SOEs' such that '[l]eaders of SOEs as well as local governments have tended to tolerate losses rather than risk dismissing staff, which would generate an alternative—and noisier—problem on the social front'.[152] Given that steel mills are typically major employers, sources of significant tax revenue and providers of health care and education services within their respective regions, 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.[153] The commission notes its finding in chapter B4.3 that local governments have not fully implemented the central directives on capacity reduction and that the Central Government's efforts on this point have had limited success to date.[154]

Rather, the commission considers the support mechanisms mentioned above have enabled certain firms in the Chinese steel sector, particularly SOEs, to be operated on non-commercial terms for extended periods, and have contributed to the rapid expansion of steel production capacity in the SOE segment, despite repeated attempts by the Central Government to reduce the scale of steel production. It is also the commission's view that these support mechanisms have insulated recipient firms from ordinary price and profit signals[155] and hence have significantly contributed to the excessive investment in capacity, excess steel production, distorted prices and, at times, ongoing loss-making.

The significance of SOEs to the broader Chinese economy, including the steel industry, is also reflected in the State Council of China's *Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation*.[156] In introducing this Guidance, the State Council notes the important role of SOEs in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The Guidance also indicates that the State Council will deepen reform of SOE policies and arrangements to optimise state owned capacity allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation include the 'safeguard measures' theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures more generally.

In 2019, the GOC announced its intention to introduce a 3-year action plan on SOE reform, which reflects the continuation of the significance of SOEs to the Chinese economy.[157] The plan is designed to target mixed-ownership reform and strategic

---

[151] Brun, *Overcapacity in steel: China's role in a global problem*, p 29.

[152] Liu and Song, 'Issues and prospects for the restructuring of China's steel industry', pp 351–352.

[153] See also the commission's final report for dumping investigation number 301: EPR 301, document number 38, p 58.

[154] The commission also notes that the GOC did not cooperate with the present inquiry and did not respond to the request for information of direct relevance to this issue (see sections B and C of the GOC questionnaire).

[155] As explained in sections A4.4 and A4.6 of this SEF, this dynamic is also a result of adherence to GOC policy directives by both SOEs and private firms.

[156] State Council, *State Council issues guideline on reorganization of SOEs* [media release], State Council, GOC, 26 July 2016, accessed 25 March 2024.

[157] State Council, *China's central SOEs urged to increase profitability, deepen reform* [media release], State Council, GOC, 20 July 2020, accessed 25 March 2024.

restructuring in sectors including coal and electricity, steel and non-ferrous metal. In recent years, SOE reform has focussed on consolidation through mergers and acquisitions, which has (arguably) increased the state's presence in the market.[158]

The commission considers that in combination with slow, incremental policy reform and the GOC's economic and fiscal stimulus packages, the role of SOEs in general involved in 'capital intensive sectors that produce intermediate but highly tradable goods with important linkages to other upstream and downstream economic activities, such as the mining, chemicals or even electronics sectors'[159] provides a buffer to the Chinese steel industry from external market forces. Put another way, the available evidence suggests that decisions relating to the terms of transactions in the Chinese steel market are insulated from price signals.[160] This results in the anomalous circumstance whereby those SOEs 'operating in upstream sectors … provide inputs to steel companies at below-market prices and in preferable terms.'[161] The commission notes that the major input into the railway wheels is steel billet, supplied from a related party SOE at below cost during the inquiry period.

A4.5 The role of the GOC in private firms

In addition, the commission understands that while not expressly compulsory under law, private firms engage with the policies and objectives of the GOC by aligning their commercial interests with industry directives and where relevant, appointing party members on supervisory boards. Based on the available evidence, the commission finds that the decisions of such firms in the Chinese market are often based on GOC policy goals as opposed to properly functioning price signals. The commission also notes that overcapacity arising from GOC influence impacts the market as a whole in ways that put downward pressure on prices, as do the unprofitable sales of firms (often SOEs) transacting at losses in the Chinese steel sector.[162]

A4.6 Direct and indirect financial support

Examples of specific support programs provided to Chinese steel producers by the GOC, as identified by the American Iron and Steel Institute and the Steel Manufacturers Association, include preferential loans and directed credit, equity infusions and/or debt-to equity swaps, access to land at little or no cost, government mandated mergers (permitting acquisition at little or no cost) and direct cash grants for specific steel construction projects.[163] Similar programs have been previously identified by the commission in respect of the Chinese steel industry. It is the commission's view that these programs have directly contributed to conditions within the Chinese steel industry during the inquiry period by providing direct financial support to recipient steel producers.

---

[158] H Yu, 'Reform of state-owned enterprises in China: The Chinese Communist Party strikes back', *Asian Studies Review*, 2019, 43(2):332–351, doi:10.1080/10357823.2019.1590313.

[159] Mattera and Silva, *OECD steel SOEs report*, p 5.

[160] Section C of the GOC questionnaire for this inquiry requested information relating to government involvement in setting prices in the zinc coated (galvanised) steel and HRC sectors, such as, inter alia, "[w]hat 'price regulation fund' regulations have applied to zinc coated (galvanised) steel and HRC since 1 July 2006?" The GOC did not respond to this information request.

[161] Mattera and Silva, *OECD steel SOEs report*, p 8.

[162] See EC, *EC Report*, pp 358–360.

[163] Brun, *Overcapacity in steel: China's role in a global problem*, p 25.

These subsidies and tax concessions reduce the operating costs of Chinese steel enterprises, confer a competitive advantage through the ability to offer steel products at lower prices and increase the profitability of steel production.[164] Although subsidies affect specific exporters differently based on the level of subsidy they receive, subsidisation supports unprofitable producers, delaying or preventing their timely exit from the industry. As mentioned earlier, this is another reason that explains why sales of both upstream and downstream steel products in the Chinese market are made by suppliers that sustain ongoing operational losses and tolerate unprofitable terms. In effect, such support enables loss-making firms to continue selling steel products (including upstream steel inputs) into the market at rates that do not correspond to the cost of production for those products in China. These industry-wide effects are broader than the recipient-specific subsidisation that may be the subject of countervailing duties.

A4.7 Taxation arrangements

The commission has previously identified evidence of export taxes and export quotas on a number of key inputs in the steel making process for steel billet including coking coal, coke, iron ore and scrap steel in REP 466.[165]

These measures keep input prices artificially low and create significant incentives for exporters to redirect these products into the domestic market, increasing domestic supply and reducing domestic prices to a level below what would have prevailed under normal competitive market conditions.

A4.8 Competition in Chinese steel markets

The commission considers the GOC's involvement and influence over the steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry. The issuance of planning guidelines and directives along with provisions of direct and indirect financial support creates a domestic market that benefits domestic producers and supports inefficient enterprises, but does not support access and therefore competition from foreign producers.[166]

The commission acknowledges that China's supply side structural reform targets the structure of production, to make it more efficient and to balance the supply side of China's economy with the demand side.[167] It is a 'suite of policies focus[ing] on reducing distortions in the supply side of the [Chinese] economy and upgrading the industrial sector.'[168] China's steel industry has been a key focus of these policy reforms. However, as explained in chapters A4.2 and A4.4, the commission considers these attempts to address existing structural imbalances have had limited success to date.

---

[164] DIIS, *Commissioner's steel report*, p 45.

[165] Discussed in REP 466: EPR 466, document number 89, pp 41–43.

[166] Brun, *Overcapacity in steel: China's role in a global problem*, p 24. Support measures include stimulus programs, land and energy subsidies and soft lending policies.

[167] J Boulter, 'China's supply-side structural reform', *Bulletin*, Reserve Bank of Australia, Australian Government, December 2018, accessed 25 March 2024.

[168] J Boulter, 'China's supply-side structural reform'.

In short, the Chinese steel market is constructed such that preferential treatments, whether focussed at SOEs or not, create a situation of 'competition for factors of production' rather than market driven competition based on price, service and value.[169]

The commission therefore considers that the GOC's historic and continued involvement in the Chinese steel industry, through its policies, planning guidelines, plans and directives, materially contributed to its steel industry's overcapacity, over supply and distorted structure during the inquiry period. It is the commission's view that these features have also limited foreign competition. When considered together, the state of affairs created by the GOC significantly affected the dynamics and price setting in the domestic market.

A4.9 Conclusion

Based on the evidence considered in chapters A4.1 to A4.8 above, the commission reaches the following findings. These findings relate to the Chinese steel market as a whole, including both upstream and downstream steel products.

The Chinese steel market is characterised by firms, particularly SOEs, making unprofitable sales (including so-called 'zombie' firms). This circumstance arises from overcapacity attributable to GOC policy interventions, as well as other forms of GOC influence, which collectively place downward pressure on prices in the Chinese steel market.

Moreover, based on the available evidence, the sales prices of firms sustaining ongoing operational losses have affected the market as a whole, particularly given the extent of SOE involvement in steel production. The commission finds that both SOEs and private firms operating in the Chinese steel market often make decisions on the terms of transactions based on GOC policy goals as opposed to properly functioning price signals.

The commission recognises that the GOC has taken steps to seek to reduce overcapacity and secure the exit of unprofitable firms (including so-called 'zombie' firms), but the commission finds that those steps have been unsuccessful based on the available evidence.[170]

These findings are made on the basis of the commission's extensive analysis of the information provided to it in submissions and its own research into the market. The breadth of information accessible by the commission enabled a sufficiently fulsome analysis to support the commission's findings.

This analysis was undertaken in the absence of a response to the government questionnaire from the GOC. As noted above, the commission sought a variety of information and evidence from the GOC, including information on GOC involvement and policies in the steel market generally and the railway steel and steel billet sectors in particular, the operation of price signals in these sectors, and GOC measures that may or may not be affecting these sectors. The GOC did not cooperate with this request for information. The commission acknowledges that the lack of certain information did constrain the commission's ability to verify whether transactions of steel billet in China are

---

[169] Zhang and Freestone, 'China's unfinished state-owned enterprise reforms'.

[170] The GOC declined to provide information that would be directly relevant to the commission's evaluation of this point. The commission thus relied on the information available.

market-determined. Ultimately, the commission was able to make findings in this SEF on the basis of the range of information to which it had access. It is open to the GOC to provide information in response to this SEF.

A5 The GOC role in the market for the goods

The commission has found in the preceding chapter that the GOC exerts significant influence over the Chinese steel sector, including the steel billet market. This chapter further assesses the effect of that influence on steel billet prices in China and therefore on the cost of the primary steel input feed in the manufacture of the goods by Chinese producers.

A5.1 Significance of steel billet costs in the production of the goods

The commission found that billet is the major raw material input used in the production of railway wheels. Steel billet was greater than 70% of percentage of domestic and export total CTM.[171]

Given the high proportion of steel billet in the production of the goods and like goods and its influence on pricing decisions, the commission considers that steel billet prices have a significant impact on both the production cost and selling price of the goods and like goods.

A5.1 The manufacturer of the goods and related parties

The exporter and manufacturer of the railway wheels during the inquiry period, MTM, is a Chinese SOE. MTM purchased all raw materials (steel billet) for the production of the railway wheels from its parent entity, MIS.

MIS is a Chinese SOE within Masteel Group,[172] and one of the largest steel producers and sellers in China. MIS primarily sourced raw materials and services from Chinese SOEs, including various related parties within the China Baowu Group.

MIS ownership changed on 19 September 2019, due to the SASAC of Anhui province transferring 51% equity in Masteel Group to China Baowu Steel Group Corporation Limited (China Baowu).[173] Since then, Masteel Group has become one of the subsidiaries of China Baowu. China Baowu held 51% of the shares of Masteel Group, and the SASAC of Anhui Province held the remaining 49%. The direct controlling shareholder of MIS remained unchanged, that being Masteel Group. China Baowu became an indirect controlling shareholder, and the actual controller of MIS was changed from the SASAC of

[171] The commission notes its preliminary findings that steel billet was supplied to MTM at below cost. The percentage of total CTM would otherwise be higher.
[172] 'Magang' approximates the Mandarin Chinese pronunciation of 'Masteel'. In English, refer to 'Magang' and 'Masteel' interchangeably.
[173] MIS, *Maanshan Iron & Steel Co Ltd 2022 Financial Report*, p 134.

Anhui Province to the SASAC of the State Council[174] – MIS's primary owner was in effect the SOE SASAC both before and after this change.[175]

China Baowu is a state-owned capital investment company controlled and held by the State-owned Assets Supervision and Administration Commission of the State Council. It is mainly engaged in operating state-owned assets within the scope authorized by the State Council, as well as carrying out relevant state-owned capital investment and operation.[176]

Masteel Group is a state-owned holding enterprise and the controlling shareholder of the Company. It is mainly engaged in mining and sorting of mineral products, construction, manufacturing of construction materials, trading, storage and property management, as well as agriculture and forestry.[177]

---

[174] MIS, *2022 Environmental, social and governance report*, MIS website, 31 March 2023, accessed 25 March 2024, p 6.
[175] SASAC of the State Council generally owns shares of relatively large companies in China. SASAC of Anhui province owns shares of companies in Anhui province.
[176] MIS, *(1) discloseable and connected transaction – absorption and merger of Masteel Finance and (2) continuing – financial services agreement*, MIS website, 15 November 2022, accessed 25 March 2024.
[177] MIS, *(1) discloseable and connected transaction – absorption and merger of Masteel Finance and (2) continuing – financial services agreement*.

The corporate structure of MIS and MTM are outlined below (noting that MTM was wholly owned by MIS during the inquiry period):[178]

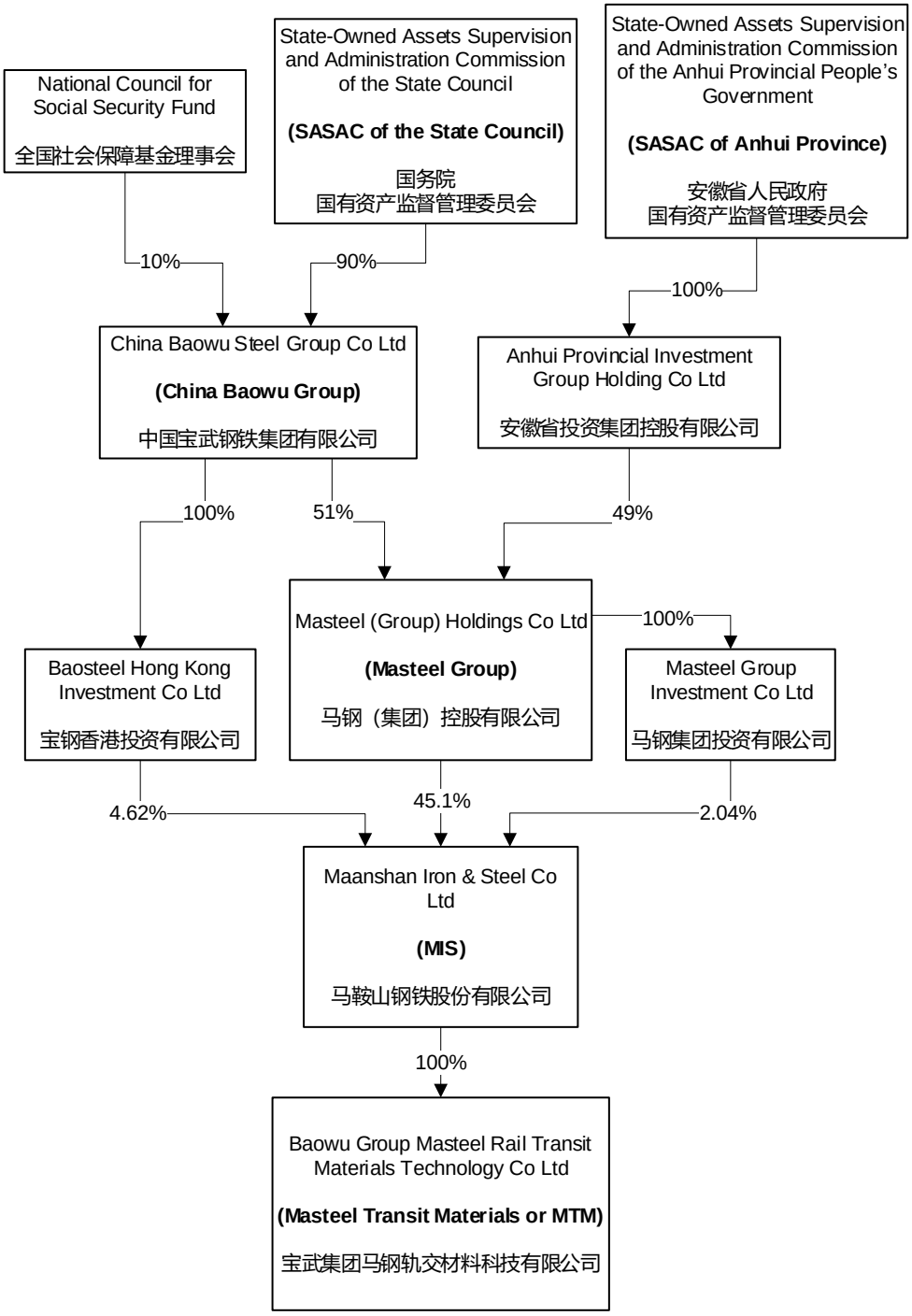

Figure 14: Corporate ownership structure of MIS and MTM

MIS senior management, including the chairman, vice chairman, general manager and deputy general managers hold management positions in controlling shareholder

[178] MIS, *Maanshan Iron & Steel Co Ltd 2022 financial report*, pp 2–4, 135.

companies, which are wholly-state owned.[179] In addition, certain senior management are reported as being directly managed by China Baowu.[180]

MIS and MTM are each required to have a Party Committee, in accordance with their respective articles of association. The Party Committee is comprised of senior management and ensures implementation of national principles and policies and considers major operational and management matters before decisions are made.[181] The Party Committee is a key pillar for the GOC to exercise control of SOEs, through the participation in corporate decision-making.[182]

The commission finds that the GOC exercises control in the market, through ownership, and its role in management and decision-making structures.

A5.2 Government initiatives, policies, planning guidelines and directives

The commission did not receive a response from the GOC with relevant information on national or provincial policies or programs concerning the steel industry, MIS or MTM during the inquiry period.[183]

The commission understands that the steel industry is of significant national importance. The actual controlling shareholder of MIS is the SASAC of the State Council and the SASAC, with the SASAC of Anhui province an indirect shareholder.

The Anhui Government has historically enacted various policy measures to support the development of Masteel, including through close cooperation with other SOEs, and the preferential allocation of iron ore resources to Masteel.[184]

The commission identified examples of preferential prices applicable to MIS during the inquiry period, including for the supply of domestic iron ore from a related party SOE within the Magang Group (owned by the SASAC of the State Council and the SASAC of Anhui Province).[185]

---

[179] MIS, *Maanshan Iron & Steel Co Ltd 2022 financial report*, pp 83–87.
[180] MIS, *Maanshan Iron & Steel Co Ltd 2022 financial report*, p 83.
[181] MIS, Articles of association, MIS website, 1 December 2022, accessed 25 March 2024, chapter 15.
[182] X Jin, L Xu, Y Xin and A Adhikari, 'Political governance in China's state-owned enterprises', *China Journal of Accounting Research*, 2022, 15(2):100236, doi:10.1016/j.cjar.2022.100236.
[183] The commission notes that MTM provided the 13th and 14th five-year plans for economic and social development of Anhui Province. The documents provided are not specific to the iron and steel industry and contain only very general details such as to 'strengthen strategic emerging industries' including Ma'anshan advanced rail transit equipment.
[184] Anhui Provincial People's Government, *Notice of the People's Government of Anhui Province on issuing the plan for the adjustment and revitalisation of the steel industry in Anhui Province (cached)*, Anhui Government, GOC, Baidu website, 14 April 2019, accessed 26 March 2024. Note that the link cited is to a cached version of the Anhui Government website. The commission could not access the Anhui Government website despite repeated attempts.
[185] The commission will detail its findings further in the verification report for MIS, to be published after this SEF.

The commission found that MIS and MTM were both recognised as 'High-Tech Enterprises', with preferential taxation treatment, as their operations are in so-called high-tech fields supported by the state.[186]

MIS and MTM also received direct government support through various income-related and asset-related grants, including:

- technical innovation grants
- government industrial support funds
- import and export incentives
- subsidies for employment stabilisation
- grants for environmental improvement projects
- policy rewards and subsidies.[187]

Restructure to support government planning and policies

The commission understands that the corporate restructure which moved MIS and MTM into the China Baowu Group was implemented as part of the GOC's national policies and planning for the Chinese iron and steel industry. Its stated purposes included implementing supply-side structural reform and to redress ongoing issues such as overcapacity.

According to the information provided and publicly available information, the transfer:

- occurred for nil consideration, being a policy-driven action rather than a normal commercial transaction
- was driven by the GOC government's overall policy and strategy in relation to the restructuring of its iron and steel industry
- occurred to consolidate the iron and steel production of the Company and Magang Group and achieve concentration of production capacity in furtherance of the State Policy.[188]

MIS public joint announcement, provided by MIS, contains the following details of the reasons for the transfer:

> *The Equity Transfer represents part of the initiative consistent with the policy of the PRC government to promote the development of the iron and steel industry and to implement a structural reform of the industry, by way of consolidating and reorganizing iron and steel producers to create globally competitive conglomerates. The principal objective is to consolidate and optimize the iron and steel production operations between China Baowu and the Company, thereby*

---

[186] The commission will detail its findings further in the verification reports for MTM and MIS, to be published after this SEF.

[187] See, for example: MIS, *Maanshan Iron & Steel Co Ltd 2022 financial report*; MIS, *Overseas regulatory announcement on receipt of government grants*, MIS website 30 January 2024, accessed 25 March 2024.

[188] Securities and Futures Commission, *Ruling on whether the mandatory general offer obligation that would result from the proposed transfer of an interest in Magang (Group) Holding Company Limited, the controlling shareholder of Maanshan Iron & Steel Company Limited, should be waived, and, if not, the applicable offer price per H share for the purposes of the offer*, SFC, Hong Kong SAR Government, 22 July 2019, accessed 25 March 2024, pp 4–6.

> *increasing the degree of market concentration within the iron and steel industry in the PRC and thus the overall level of competitiveness of the enlarged China Baowu group in the global markets. Such restructuring is also in line with the ongoing restructuring of state-owned asset by the PRC government.*
>
> *Pursuant to a guiding opinion issued by the State Council of the PRC in September 2016, by 2025, the top ten enterprises in the iron and steel industry of the PRC should achieve a total concentrated production capacity of over 60% of the overall production capacity among the whole iron and steel industry in the PRC. Further, the top ten enterprises should include at least three to four conglomerates in the iron and steel industry of the PRC, each with a production capacity of at least 80 million tonnes. The Equity Transfer, upon Completion, will likely enable the enlarged China Baowu group to achieve the required target of at least 80 million tonnes of production capacity. It is against such background that the Equity Transfer Agreement was entered into by Anhui SASAC and China Baowu, with the support of SASAC, in order to implement and support the overall policy and strategies in relation to the long-term development of the iron and steel industry in the PRC.*[189]

The commission also cites the following public details in relation to the transfer:

> *In order to actively implement the decisions and arrangements of the CPC Central Committee and the State Council for promoting the sound development of domestic iron and steel industry, further advance national economic layout restructuring, implement supply-side structural reform and accelerate merging and reorganization in industries with overcapacity, Anhui SASAC and China Baowu entered into the Agreement on the Transfer of Equity Interests in Magang Group at Nil Consideration on 31 May 2019*.[190]

The commission finds that the GOC exercises control in the market, through policies, programs, and direct intervention to influence corporate ownership structures.

A5.3 Government role in the railway wheel end user market

The commission has identified that there is significant GOC and SOE involvement in the end user sector of the railway wheel market.

The GOC involvement in the end user sector of the railway wheel market includes the following entities:

- CRRC Corporation Limited (China Railway Rolling Stock Corporation) – a Chinese state-owned rolling stock manufacturer created through the merger of China's two rolling stock manufacturers into the one entity in 2015

---

[189] Baosteel Hong Kong Investment Co Ltd and MIS, *Joint announcement*, MIS website, 23 July 2019, accessed 25 March 2024. MIS submitted that it could not provide the equity transfer agreement as it was not directly involved in the transfer but referred to this joint announcement, made to the Stock Exchange of Hong Kong (HKEX).

[190] MIS, *Overseas regulatory announcement*, HKEX News website, 26 August 2019, accessed 25 March 2024, p 28.

- China State Railway Group Co Ltd – a solely state-owned enterprise under the management of the central government, established in accordance with the approval of the State Council and Chinese company law and which operates a significant portion of China's railways[191]
- China Railway Construction Corporation and China Railway Group Ltd – both SOEs involved in railway infrastructure construction.[192]

The commission also notes that high speed railways and railway equipment are classified as a key industry sector for the GOC's Made in China 2025 initiative.[193] It is also noted that the domestic customer for the goods in China was a SOE under the SASAC of the State Council.

A5.4 The conditions affecting the goods during the inquiry period

The commission identified significant government influence in the market for the goods, including in the forms of:

- policies, directives, and direct market intervention to affect company mergers
- the role and operation of SOEs
- direct and indirect financial support
- taxation arrangements.

The commission notes its earlier findings in this SEF that government policies led to structural imbalances and conditions of excess production and capacity, with prices more likely to be affected by loss-making firms.

These factors directly affected the market conditions in the Chinese steel sector during the inquiry period, with an economic downturn leading to 'surplus production amid sluggish demand'.[194]

MIS, as one of the largest steel producers in China, both contributed to and was directly affected by these conditions. Its annual financial report for 2022 noted that:

> *From the perspective of the steel industry, it is difficult to fundamentally change the contradiction of oversupply in the short term, and the resource, energy and environmental constraints continue, thus the external environment facing the steel industry remains complex and severe.*[195]

MIS's 2023 interim report further noted that:

> *the external environment will remain as complex and challenging, domestic demand may still fall short. Regarding the steel industry, seven ministries including the Ministry of Industry and Information Technology, have recently jointly released*

---

[191] China State Railway Group Co Ltd, *About us*, China Railway website, n.d., accessed 25 March 2024.
[192] MJ Zenglein and A Holzmann, *Evolving Made in China 2025*, Merics website, 2 July 2019, accessed 25 March 2024.
[193] Zenglein and Holzmann, *Evolving Made in China 2025*.
[194] L Yukun, 'Plan gives steel industry hope of brighter days ahead', *China Daily*, 6 October 2023, accessed 25 March 2024.
[195] MIS, *Maanshan Iron & Steel Co Ltd 2022 financial report*, p 48.

> *the 'Stable Growth Plan for the Steel Industry' to implement the decisions and arrangements made at the Central Economic Work Conference. The plan clarifies that from 2023 to 2024, efforts will be made from both sides of supply and demand to stabilize operations, expand demand, promote reforms, support enterprises, and enhance the industry's capabilities, and effective measures will be taken to stabilize the economic performance of the steel industry and accelerate high-quality development.*[196]

MIS reported loss-making during the inquiry period, as conditions of oversupply and weak demand meant that costs were not passed on in selling prices.[197] The commission found that loss-making existed, notwithstanding that MIS was eligible for government support and preferential prices from certain suppliers.

These conditions directly affected the market for the goods, as MTM benefitted from raw material prices at below costs rates. MTM's reported costs, based on its prices paid to MIS, did not capture the actual costs applicable for production in the domestic market.

A6 Conclusion

The commission preliminarily finds that the conditions in the Chinese steel and steel input markets directly affected the domestic market for railway wheels in China. The situation affected the Chinese market for the goods, primarily through the distortion of steel billet costs, the principal raw material input for the goods.

MTM's steel billet purchase prices were not reflective of ordinary market conditions because, based on the available evidence, they were not the result of properly functioning profit and price signals.

A6.1 Comparison of steel billet prices

The commission has further considered the impact of the conditions in the Chinese steel and steel input markets on steel billet prices insofar as the relate to the grade of steel billet used to manufacture the goods and the specific circumstances of MTM's purchases of steel billet and the adjustments made by the commission. This analysis is included in Appendix B.

---

[196] MIS, *2023 Interim Report*, MIS website, 2023, accessed 25 March 2024, p 19.

[197] MIS, *Announcement on estimated loss for annual results of 2022*, MIS website, 2023, accessed 25 March 2024; MIS, *Announcement on estimated loss in interim results of 2023*, MIS website, 2023, accessed 25 March 2024.

APPENDIX B CONSTRUCTED NORMAL VALUES – CHINA

B1 Establishing normal values

As discussed in chapter 6, the commission has preliminarily found that MTM sold domestic like goods, however, these sales were not 'arms length' transactions. This finding was because the commission found evidence that sales prices appeared to be influenced by a commercial or other relationship between the buyer and the seller. This finding is discussed in chapter 6.3.1 of this SEF.

As a result, there is an absence of domestic sales of like goods relevant for determining a normal value price under section 269TAC(1). Consequently, the commission considers that section 269TAC(2)(a)(i) applies to MTM for this inquiry.

Where section 269TAC(1) is not available, the commission's policy preference, as outlined at chapter 10 of the Manual, is to construct normal values under section 269TAC(2)(c), using the available cost data of exporters.

Section 269TAC(2)(d) does provide an alternative, to work out the normal value of the goods using the price paid or payable for like goods sold to a third country, however, in this case that option is not available as MTM did not sell like goods to third countries in the inquiry period.[198]

In summary, the commission has constructed normal values under section 269TAC(2)(c) for MTM, and has done so in accordance with regulations 43 to 45 of the Regulation.

B2 Applicable legislation, policy and practice

Where the Minister is satisfied that a normal value cannot be determined under section 269TAC(1), as is the case in this inquiry for MTM, section 269TAC(2)(c)(i),(ii) provides that the normal value is:

> *… the sum of:*
>
> *(i) such amount as the [Minister] determines to be the cost of production or manufacture of the goods in the country of export; and*
>
> *(ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the [Minister] determines would be the administrative, selling and general costs associated with the sale and the profit on that sale*

As required by sections 269TAC(5A) and 269TAC(5B), the construction of normal values under section 269TAC(2)(c) must be in accordance with the Regulation.

[198] MTM claimed this in its REQ and the commission verified this claim as accurate.

B3 Cost of production

The commission has calculated the cost of production or manufacture of railway wheels in China under section 269TAC(2)(c)(i).

The starting point for this calculation is the exporter's records.

B3.1 MTM's records

The commission is preliminarily satisfied that MTM kept records in relation to the production of the goods and that MTM's records are in accordance with GAAP in China.

For the purpose of regulation 43(2), the commission's finds that MTM's recorded costs do not reasonably reflect competitive market costs associated with the production or manufacture of the goods in China because MTM purchased steel billet from its parent entity at below cost in transactions that were not 'arms length'.

Specifically, the commission found that the price of steel billet reflected in MTM's cost records was not an 'arms length' price because the price appeared to be influenced by the relationship with MIS. The commission made this assessment based on information detailed in **Confidential Appendix E.**

The commission considered whether MTM's records reasonably reflect the costs associated with the production and sale of the goods in China. The commission assessed MTM's recorded steel billet costs. The commission considers that the non-'arms length' nature of the transactions between MTM and its parent entity is evidence that MTM's costs do not reasonably reflect the costs associated with the production and sale of the goods in China.

The commission highlights that MTM's records for the production of like goods include the following items:

- raw materials, being steel billet
- other materials
- direct labour
- manufacturing overheads.

The vast majority of the MTM's overall costs of production relate to steel billet, representing more than 70% of its total cost of production. Steel billet costs therefore are the most significant component to consider in assessing whether MTM's records reasonably reflect the cost of production.

B3.2 Assessment of the cost of production in the country of origin

Noting the commission's finding that MTM's recorded costs do not reasonably reflect the costs associated with the production and sale of the goods in China, the commission has calculated the cost of production under section 269TAC(2)(c)(i) having regard to all relevant information.

This includes having regard to the conclusions reached by the commission as part of its assessment at Appendix A and the findings in relation to MTM's steel billet costs discussed in Appendix B, chapter B3.1.

The commission notes that MTM does not produce steel billet. MTM's production costs for steel billet are based on its purchase prices of steel billet.

The commission, following consideration of the available evidence, including the exporter's and producer's records, considered information relating to:

a) private domestic prices of steel billet in China
b) import prices of steel billet into China
c) prices of steel billet from countries other than the country of export[199]

to assess the cost of production or manufacture of like goods in the country of export under section 269TAC(2)(c)(i).

As outlined in chapter 6.3.2 of this SEF, the commission preliminarily considers that MIS's cost data is the most suitable information to approximate an 'arms length' price for the grade of steel billet purchased by MTM. This is because despite the non-'arms length' finding, MTM's cost data is particular to the grade of billet used to produce the goods. The commission considered the use of this data was fundamental to ensuring an appropriate proxy in the country of origin particularly when compared to third-market market information which was not sufficiently approximate. To address its non-'arms length' transactions findings, the commission replaced the raw material component of the costs, and applied other adjustments in accordance with the legislative requirements.

The commission relied on MIS' information to ascertain a Chinese market price for the steel billet used to produce the goods, using the actual cost to make and sell data for the grade of steel billet, plus an amount for profit.

The commission has adjusted the steel billet costs in MTM's records, to reflect an 'arms length' purchase price of the relevant grade of steel billet in China.

B4 Consideration of other benchmark prices

The commission also considered other information available to calculate a Chinese market price for the steel billet used to produce the goods as part of the assessment.

B4.1 Other benchmarks considered by the commission

Based on the assessment of the information currently available, including information provided by the Australian industry, the commission considers a constructed benchmark price to be the best alternative information available, to determine a Chinese market price for the steel billet.

Specifically, the commission considered a benchmark (the steel billet benchmark) consisting of domestic prices for steel billet in Türkiye, adjusted to reflect the premium for the higher grade of steel billet used in the manufacture of the goods in China.

[199] When considering other country cost data, the commission also considers the available evidence about comparative advantages or disadvantages between exporters or producers in that country and the country of export.

The commission considers that this benchmark, after making relevant adjustments, is the closest alternative proxy to reflect the cost of production in China, based on market prices unaffected by distortions identified in the Chinese steel market as specified in Appendix A.

Outlined below is the commission's assessment in relation to this constructed steel billet benchmark, including adjustments to the benchmark that may be required.

B4.2 Steel billet benchmark

The commission considers that the most appropriate level of cost for the proxy is at the steel billet level of cost for the following reasons.

Reasons

1. MTM does not produce steel billet. It acquires the steel required to manufacture railway wheels in the form of steel billets. The steel billet reflects the first point in MTM's production and cost records where the cost of the steel used in the manufacture of railway wheels is recorded.

2. Steel billets purchased by MTM were from its parent entity, MIS. These steel billets were found to have been purchased at non-'arms length' prices. The purchase prices were below MIS' costs for these billets. The commission considers that the use of a benchmark steel billet price should reflect an 'arms length' price in China that is inclusive of the costs of production, costs of sale and a market-determined level of profit.

B4.3 Assessment of sources

For the purposes of assessing an appropriate steel billet benchmark, the commission considered in descending order:

a) private domestic prices in China
b) import prices into China and
c) external benchmarks.

B4.3.1 Private domestic prices in China

The commission notes that it did not receive a response to the GOC questionnaire, with information about steel billet prices in the Chinese domestic market. The commission also has not identified other Chinese suppliers of the grade of steel billet used to produce the goods.

The commission also notes the findings in Appendix A.

The commission does not have relevant information concerning Chinese market prices for steel billet that would be applicable to MTM, for purchases that are 'arms length' transactions and not distorted by other market factors.

B4.3.2 Import prices into China

The commission sought information relating to imports of steel billet from the GOC in the government questionnaire. As noted earlier, the GOC declined to provide a response to

the commission's questionnaire, including the information requested in relation to steel billets.

The commission notes that, whilst China imports steel, these imports reflect a small proportion of China's overall domestic production of steel.

The commission subsequently sourced information regarding imports of steel billet into China from TradeData International. The data provided related to imports reported under the Harmonized System (HS) for tariff codes relevant to steel billet. The relevant HS tariff codes include a broad range of semi-finished steel products which may or may not be relevant to the grade of steel billet used to manufacture the goods. In examining this information, the commission was not able to identify a price that was sufficiently identifiable as a grade of steel billet relevant to producing the goods or could be readily adjusted to reflect the applicable grade of steel.

The commission considers that the import price data available to the commission is not suitable for establishing a benchmark price.

B4.3.3 Prices from country other than the country of export

The commission examined price data from a range of countries and regions. The price data was sourced from subscription services and from data provided by Comsteel in its application for the continuation inquiry.[200]

B4.4 Benchmark country selection

Using available data sources the commission identified a range of steel billet prices originating from:

- the Federative Republic of Brazil (Brazil)
- the European Union (EU)
- the Republic of India (India)
- the Islamic Republic of Iran (Iran)
- Italy
- the United Mexican States (Mexico)
- the Islamic Republic of Pakistan (Pakistan)
- the Russian Federation (Russia) & the Commonwealth of Independent States (CIS)
- the Republic of Korea (South Korea)
- Taiwan
- the Republic of Türkiye (Türkiye).

The billet prices are contained in **Confidential Attachment 8**.

[200] The commission obtained confidential data from Bloomberg and MEPS International Ltd. Comsteel, in its application for the continuation inquiry, included steel billet prices from Italy and included further information in a submission: EPR 632, document numbers 1, 18. MEPS provided this copyright statement about its data: *This information is copyrighted, all rights reserved. MEPS data is licensed for the exclusive use of the company's direct employees. Any unauthorised copying, forwarding, or sharing by any means will be an infringement of copyright*.

The commission assessed the suitability of each of these benchmarks in relation to assessing the cost of production in China unaffected by the distortions identified in the Chinese steel market. The factors considered in this assessment were:

- the status of each country's domestic steel manufacturing industry, including recent plant developments and the relative size of the country's steel industry internationally
- the level of economic development, including an assessment of GDP per head, life expectancy, literacy rates, the World Bank human capital index and the United Nations human development classification levels
- relative labour costs
- the market-based status of each country
- other factors that may be relevant.

The data used in this analysis is summarised in **Appendix D**.

Having considered these relevant factors, the commission has preliminarily found that Turkish domestic prices provide a suitable representative benchmark that is indicative of the cost of production in China unaffected by the distortions identified in the Chinese steel market.[201] Specifically, the commission found that:

- Türkiye is among the top 10 countries in terms of steelmaking capacity and an assessment of Türkiye's steel industry indicates that there have been multiple recent upgrades to its steel manufacturing facilities[202]
- Türkiye's degree of development in relation to GDP per capita,[203] literacy rates,[204] the World Bank human capital index[205] and the United Nations human development index[206] are similar to China
- analysis indicates that labour costs in Türkiye for the manufacturing sector are lower than those in China[207]
- analysis of the market for Türkiye indicates that steel producers are privately owned and the market is subject to normal factors of competition.

---

[201] Prior to adjustment for any grade premiums, the Turkish benchmark price was based on grade S235JR.

[202] The commission assessed the capacity of the steel manufacturing in each country using OECD data and papers on steelmaking capacity: OECD, *Steelmaking capacity*, OECD website, July 2023, accessed 22 March 2024.

[203] World Bank Group, *NY.GDP.PCAP.CD – GDP per capita (current US$)* [World Bank Open Data], 21 February 2024, accessed 26 February 2024.

[204] World Bank Group, *SE.ADT.LITR.ZS – Literacy rate, adult total (% of people ages 15 and above)* [World Bank Open Data], 21 February 2024, accessed 26 February 2024.

[205] World Bank Group, *HD.HCI.OVRL – Human capital index (HCI) (scale 0-1)* [World Bank Open Data], 21 September 2020, accessed 22 March 2024.

[206] United Nations Development Programme, *Table 1. Human development index and its components* [data set], 2023, accessed 22 March 2024.

[207] See section B4.5.2.

B4.5 Adjustments to the steel billet benchmark to reflect the cost of production in China.

The commission considered whether the available evidence demonstrated that further adjustments to the Turkish benchmark were warranted to reflect any claimed comparative advantage or disadvantage applicable to Chinese steel billet producers.

B4.5.1 Submissions in relation to comparative advantage

Rio Tinto submitted that the reduced steel prices in China were due to economies of scale, technically superior equipment and cheap available labour.[208] Rio Tinto also referenced certain government interventions in relation to the Chinese steel market. The commission notes that Rio Tinto provided no evidence to support its claims in relation to economies of scale, technically superior equipment and cheap available labour.

Comsteel submitted that it disagreed with Rio Tinto's claims that economies of scale and technically superior equipment provided a competitive advantage.[209] Comsteel stated that the benefits afforded by the GOC were a more compelling explanation for the lower prices.

The GOC submitted that any price differences were due to the scale of the domestic industry as well as investment in new equipment. The GOC further claimed that the original inquiry, in selecting a French benchmark, offered no consideration of factors affecting price such as raw materials, production technology, different labour costs and differing market demand or supply situations.

The commission has assessed these claims in relation to comparative advantage below.

B4.5.2 Labour Costs

The commission examined relative costs of labour in Türkiye and China.

This analysis identified that China's average gross wages in 2022 in the manufacturing sector were:

- 97,528 CNY per year for persons employed in non-private firms[210]
- 67,352 CNY per year for persons employed in private firms.[211]

By comparison, Türkiye's average gross earnings in 2022 for persons employed in the manufacturing sector was equivalent to approximately 58,248.87 CNY per year.[212]

---

[208] EPR 632, document number 6.
[209] EPR 632, document number 11.
[210] National Bureau of Statistics of China, *The average annual wage of persons employed in urban non-private units in 2022* [media release], National Bureau of Statistics of China, 10 May 2023, accessed 22 March 2024.
[211] National Bureau of Statistics of China, *The average annual wage of persons employed in urban private units in 2022* [media release], National Bureau of Statistics of China, 10 May 2023, accessed 22 March 2024.
[212] Turkish Statistical Institute, *Table 4: Monthly average paid hours, gross wages and earnings by economic activity 2022* [Structure of earning statistics, 2022, data set no 49750], Turkish Statistical Institute, 25 December 2023, accessed 22 March 2024.

The commission is satisfied that, based on information available, labour cost differences between China and Türkiye are such that any adjustment to the overall benchmark price would be minimal and this would not affect the overall assessment.

The commission has consequently not adjusted the benchmark price to reflect any claimed comparative advantage in labour costs.

B4.5.3 Economies of scale and technically superior equipment

The commission examined Rio Tinto's and the GOC's claims in relation to economies of scale and technically superior equipment. It is noted that neither Rio Tinto or the GOC provided evidence to demonstrate that the size of China's steel industry or the equipment used provided a comparative advantage.

The commission, in considering a benchmark country, considered the steel production capacity of each country and recent developments in each country's production facilities. This analysis identified that Türkiye was within the world's top 10 steel producers. Türkiye's steel manufacturing plants also have had recent upgrades, including the addition of 23.6 million metric tonnes of capacity between 2005 and 2023.

To the extent that is practicable in light of the available evidence, the commission is satisfied that it has accounted for any claimed comparative advantage resulting from economies of scale and manufacturing facilities by selecting Türkiye as the benchmark country.

B4.5.4 Other claimed comparative advantages

In assessing comparative advantages the commission has not included factors resulting from the GOC's interventions. As consequence, Rio Tinto's claims in regard to government interventions have not been considered for the reasons set out in Appendix A.

The GOC submitted that the analysis in REP 466 did not include analysis of raw materials and supply or demand conditions. The commission notes that, whilst China produces significant amounts of coal, coal production has been identified as being affected by GOC distortions in Appendix A. The commission further notes that both Türkiye and China sell steel domestically and export steel.

The Commissioner is preliminarily satisfied that these other claimed advantages, based on the information available to the commission, do not provide a basis on which to make an adjustment to the benchmark.

B4.5.5 Conclusion – comparative advantage clams

The commission is satisfied that, to the extent that is practicable in light of the available evidence, the benchmark is a suitable proxy after considering China's claimed comparative advantages.

B4.6 Adjustments to the steel billet benchmark to reflect the grade of billet used in China to manufacture the goods

The commission further considered the requirement to make an adjustment to the steel billet benchmark to reflect the cost to produce the grade of steel in China used in the manufacture of the goods.

Comsteel, in a submission, estimated normal values in China.[213] Comsteel's estimate included adjustments to account for the additional costs in producing the steel billet grade required for the goods. These adjustments reflected the requirements for a higher grade of inputted scrap steel and the higher levels of microalloying elements.[214]

The commission examined a range of data and information to assess any relevant premium that may apply to the grade of steel used in the production of the goods in China. This included examining:

- the data and information provided by Comsteel in its application and submission regarding normal values
- the production records of MIS in relation to the production of the grade of steel billet produced to manufacture the goods and other grades of steel
- the relative premiums between different grades of steel billet in the Chinese domestic market.[215]

The commission found that each of these three methodologies identified that there was a premium for the grade of steel used to manufacture railway wheels compared to the identified benchmark price. The commission further found that each of the identified premiums were broadly consistent, each being within 1% to 2% of each other.

Based on this analysis, the commission made an adjustment to the Turkish steel billet benchmark to reflect the premium for the grade of steel used to manufacture the goods. The adjustment was based on the highest identified premium identified, which was the premium between differences in Chinese steel billet grade prices.

The commission is satisfied that, to the extent that is practicable in light of the available evidence, the adjusted Turkish steel billet benchmark is the closest alternative proxy to the cost of production in the country of export relevant to the manufacture of the goods by MTM unaffected by distortions identified in the Chinese steel market.

The commission considers the benchmark provides an indicator of the level of distortion in the Chinese steel market identified in Appendix A and further provides an assessment of the reliability of MTM's cost data before and after adjustment for the non-'arms length' purchase prices of steel billet.

---

[213] EPR 632, document numbers 1, 18.

[214] Specifically, the adjustment for higher grade of scrap steel with fewer impurities, as well as adjustments for additional microalloying for ferromanganese (FeMn), iron monosilicide (FeSi) and vanadium nitride (VN). The commission adjusted the Chinese benchmark price using the unit amounts for scrap steel and microalloying elements that Comsteel provided. The commission used data for grade Q235 as the base Chinese benchmark price, before adjustments. Because the base Chinese benchmark price was lower than the base Italian benchmark price, the premiums made a relatively higher percent increase to the Chinese benchmark than the Italian benchmark.

[215] The Chinese base grade of steel examined was Q235 sourced from MEPS and Chinese special steel grade sourced from MySteel.

B5 Comparing MTM's steel billet costs and the external benchmark

For the purposes of assessing MTM's steel billet costs and MIS' steel billet costs, the commission compared the steel billet benchmark, after making the abovementioned adjustments, to MTM's steel billet costs.

This comparison is reflected in Figure 15.

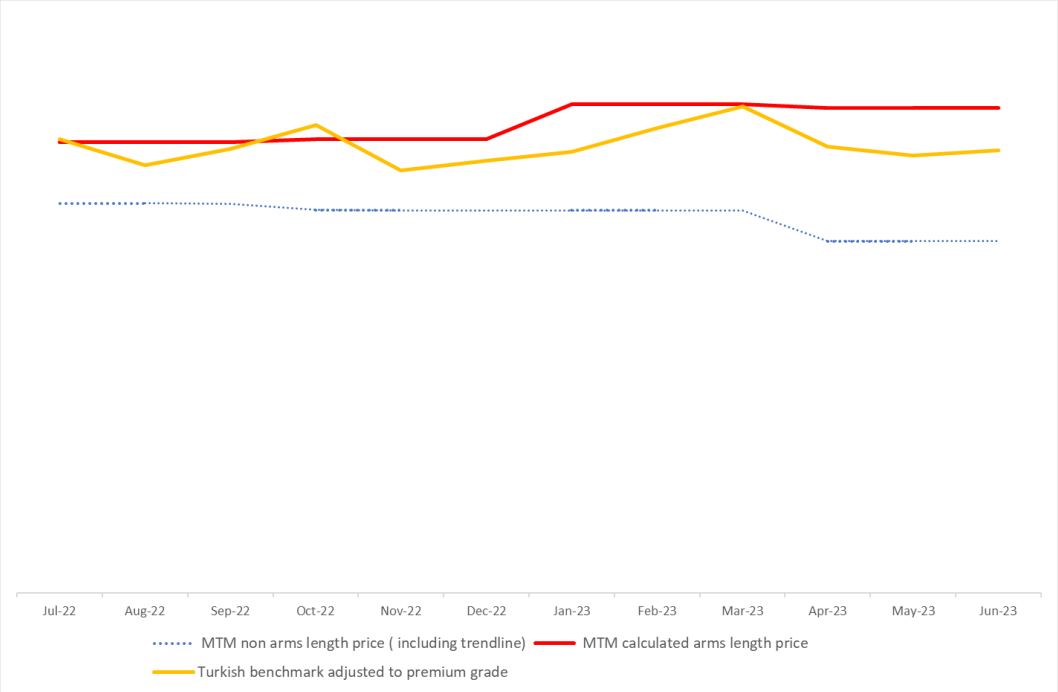

Figure 15: Benchmark prices and MTM's billet purchase prices (CNY/MT, excluding VAT)

The commission considers that the difference between the steel billet benchmark prices and steel billet costs of MTM is an indicator of the level of distortion in the Chinese steel market identified in Appendix A. This also provides a further assessment of the reliability of MTM's cost data before and after adjustment for the non-'arms length' purchase prices.

In comparing the benchmark, the commission notes that for all months of the inquiry period, MTM's actual steel billet costs were below the steel billet benchmark. However, MTM's adjusted steel billet costs for 10 of the 12 months were above the steel billet benchmark.

The commission consequently considers that MTM's cost of steel billets, after the adjustments specified in B2.1, reflects a cost that is not artificially low due to government intervention during the inquiry period and that is accurate after adjustment for MTM's non-'arms length' purchase prices.

The commission notes that this finding is specific to MTM for the inquiry period and reflects an adjusted domestic billet cost. The adjusted billet cost reflects an 'arms length' price between MTM and its related supplier of steel billets, MIS. The adjustments made were based on the records of MIS which reflect MIS' cost of production in China. No other adjustment's other than those specified in chapter 6.3.3 of this SEF were made to the costs of MTM.

The commission's analysis of steel billet prices is contained in **Confidential Attachment 9**.

B6 Submissions in relation to establishing normal values

Rio Tinto, referencing the approach to determining Chinese normal values in the original investigation, submitted that articles 2.2 and 2.2.1.1 of the *Anti-Dumping Agreement* obliged the use of cost of production in the country of origin and required the use of the cost of production using the exporter's own records.[216] Rio Tinto also referenced that the use of the benchmark in investigation 466 was based on a region with a higher cost base than China and failed to correctly account for a profit amount. Rio Tinto claimed these likely inflated the benchmark amount used. Rio Tinto further queried the SG&A figures and their relevancy to the cost of production in China.

The GOC submitted that, even if a constructed normal value was necessary, it should be on the basis of a price of a like product exported to a third country or of the cost of production in the country of origin. With specified exceptions, the GOC claimed that the constructed normal value should be based on the records of the exporter.[217] The GOC referenced the requirements of article 2.2.1.1 of the *Anti-Dumping Agreement*, the WTO dispute panel findings in *EU – Biodiesel*[218] and the appellate body's findings in *Ukraine – Ammonium Nitrate*.[219]

The commission notes that it has found that costs of MTM did not reasonably reflect the cost of production in China due to the non-'arms length' purchases of steel billet. The commission has consequently made adjustments to the billet costs of MTM so that they reasonably reflect MTM's costs of production in China, absent the effects of the non-'arms length' purchases of steel billet. Adjustments to the billet costs were made on the basis of the records of MIS. These records reflect MIS's cost of production in China. Consequently, the commission considers that Rio Tinto and the GOC's submissions are not relevant to the current assessment of normal values for this inquiry.

---

[216] EPR 632, document number 6.
[217] EPR 632, document number 10.
[218] *European Union — Anti-Dumping Measures on Biodiesel from Argentina*, WTO Doc WT/DS473/R (29 March 2016) (EU – Biodiesel).
[219] Appellate Body Report, *Ukraine — Anti-Dumping Measures on Ammonium Nitrate*, WTO Doc WT/DS493/AB/R (12 September 2019) (Ukraine – Ammonium Nitrate).

APPENDIX C ASSESSMENT OF ADJUSTMENTS TO NORMAL VALUE

To properly compare an export price of the Australian export goods to the corresponding normal value for the goods exported to Australia from China, the commission considered applying each of the following adjustments.

Adjustment type	Adjustment assessment	Calculation method and evidence	Did MTM claim this adjustment?	Preliminary assessment of whether adjustment should be applied?
Domestic credit terms	MTM sold to domestic and Australian customers with different credit terms overall.	Calculated based on: • average actual payment days for sampled domestic sales • the interest rate for short-term borrowings MTM incurred in the inquiry period. Evidence relied on: • accounts receivable ledger • loan agreement evidence • accounting system screenshots from domestic customer.	Yes	No The commission calculated a constructed normal value at an ex-works price that already excluded domestic direct selling expenses.
Domestic packaging	MTM used different packaging between Australian export sales and domestic sales.	Calculated based on internal packaging cost calculation report for relevant models.	Yes	No MTM recorded packaging expenses in its cost to make records. The commission calculated a constructed normal value using cost to make records for the Australian export goods, including packaging.

Adjustment type	Adjustment assessment	Calculation method and evidence	Did MTM claim this adjustment?	Preliminary assessment of whether adjustment should be applied?
Domestic inland transport	MTM incurred different inland transport costs between Australian export and domestic sales.	Calculated based on actual inland freight costs incurred. Relied on transport cost agreement terms covering first half of the inquiry period.	Yes	No The commission calculated a constructed normal value at an ex-works price that already excluded domestic direct selling expenses.
Domestic product liability insurance	MTM incurred different rates of product liability insurance between Australian export and domestic sales.	Calculated based on the unit cost of product liability insurance in MTM's insurance agreement covering 11 months of the inquiry period.	Yes	No The commission calculated a constructed normal value at an ex-works price that already excluded domestic direct selling expenses.
Export credit terms	MTM sold to domestic and Australian customers with different credit terms overall.	Calculated based on: • payment days • the interest rate for short-term borrowings MTM incurred in the inquiry period. Evidence relied on: • sales source documents • proof of payment documents • loan agreement evidence.	Yes	Yes

Adjustment type	Adjustment assessment	Calculation method and evidence	Did MTM claim this adjustment?	Preliminary assessment of whether adjustment should be applied?
Export packaging	MTM used different packaging between Australian export and domestic sales.	Calculated based on internal packaging cost calculation report for relevant models.	Yes	No MTM recorded packaging expenses in its cost to make records. The commission calculated a constructed normal value using cost to make records for the Australian export goods, including packaging.
Export inland transport	MTM incurred different inland transport costs between Australian export and domestic sales.	Calculated based on actual inland freight costs incurred. Relied on sample inland freight invoices and settlement detail lists.	Yes	Yes
Export port handling charges	MTM only incurred port handling expenses for Australian export sales.	Calculated based on actual port handling charges incurred. Relied on sample port handling invoices and settlement detail lists.	Yes	Yes
Export bank charges	MTM only incurred bank charges for Australian export sales.	Calculated based on actual bank charges incurred. Relied on sample bank charge details.	Yes	Yes
Export credit insurance	MTM only incurred credit insurance expenses for Australian export sales.	Calculated based on actual credit insurance expenses incurred. Relied on sample accounting system screenshots detailing credit insurance allocation.	Yes	Yes

Adjustment type	Adjustment assessment	Calculation method and evidence	Did MTM claim this adjustment?	Preliminary assessment of whether adjustment should be applied?
Export fixing and binding fee	MTM only incurred fixing and binding expenses for Australian export sales.	Calculated based on fixing and binding fee agreement with logistics service provider.	Yes	Yes
Export product liability insurance	MTM incurred different rates of product liability insurance between Australian export and domestic sales.	Calculated based on the unit cost of product liability insurance in MTM's insurance agreement covering 11 months of the inquiry period.	Yes	Yes

Table 9: Assessment of adjustments

APPENDIX D BENCHMARK COUNTRY COMPARISON

The table below includes the benchmark countries within the top 10 steel producing countries based on production capacity. Italy has the 12th largest steel producing capacity and has been included due to Comsteel's submission of Italian benchmark data. Aside from Italy, potential benchmark countries outside the top 10 steel producing countries were excluded for reasons including the relative size of their steel industries.

Country	Country Rank[i]	Capacity (million metric tonnes [MMT])[ii]	Technology and capacity growth[iii]	GDP per person (USD)[iv]	Human Development Index (HDI)[v]	Human Capital Index (HCI)[vi]	Literacy rate[vii]	Life expectancy (years)[viii]	Labour costs (CNY)
China	1	1,173.3	• Majority of plants use blast furnaces. • Plant capacity increased from 423.8 MMT in 2005 to 1,173.30 MMT at end of 2023.	$12,720.20	0.788	0.653	97% (2020)	78	SOE: ¥ 97,528.00[ix] Private: ¥ 67,352.00[x]
South Korea	6	81.6	• Majority of plants use blast furnaces. • No new plants in last 5 years, but 28.4 MMT of new capacity was added between 2005 and 2014.	$32,422.60	0.929	0.799	99% (2018)	84	¥ 150,142.43[xi]
Türkiye	8	60.0	• Majority of plants use electric ach furnaces. • New plants being built and capacity increasing from 25.1 MMT at start of 2005 to 60 MMT at end of 2023.	$10,674.50	0.855	0.649	97% (2022)	76	¥ 58,248.87[xii]

Country	Country Rank[i]	Capacity (million metric tonnes [MMT])[ii]	Technology and capacity growth[iii]	GDP per person (USD)[iv]	Human Development Index (HDI)[v]	Human Capital Index (HCI)[vi]	Literacy rate[vii]	Life expectancy (years)[viii]	Labour costs (CNY)
Brazil	10	51.6	• Majority of plants use blast furnaces. • New plants being built and capacity increasing from 36 MMT in 2005 to 51.6 MMT at end of 2023.	$8,917.70	0.760	0.551	95% (2022)	73	¥ 111,755.65[xiii]
India	2	138.4	• Majority of plants use blast furnaces. • New plants being built and capacity increasing from 52 MMT at start of 2005 to 138.4 MMT at end of 2023.	$2,410.90	0.644	0.494	76% (2022)	67	¥18,962.70[xiv]
Russia (CIS)	5	90.9	Excluded due to ongoing conflict in Ukraine and range of sanctions imposed. These factors are likely to adversely impact any assessment. The Commonwealth of Independent States (CIS) was also excluded for this reason.						
Iran	7	66.8	Iran was excluded due to lack of relevant data and information available.						
Italy	12	34.7	• Uses mostly electric ach furnaces. • In 2005 the capacity was 35.9 MMT, which increased to 39.2 MMT at end of 2011. The capacity then declined and reached 34.7 MMT at the start of 2017. There has been no change in capacity since 2017.	$34,766.40	0.906	0.728	99%	83	¥205,792.73[xv]

Table 10: Benchmark country comparison table

[i]The commission assessed the capacity of the steel manufacturing in each country using OECD data and papers on steelmaking capacity: OECD, *Steelmaking capacity*, OECD website, July 2023, accessed 22 March 2024.

[ii] OECD, *Steelmaking capacity*.

[iii] OECD, *Steelmaking capacity*.

[iv] World Bank Group, *NY.GDP.PCAP.CD – GDP per capita (current US$)* [World Bank Open Data], 21 February 2024, accessed 26 February 2024.

[v] United Nations Development Programme, *Table 1. Human development index and its components* [data set], 2023, accessed 22 March 2024.

[vi] World Bank Group, *HD.HCI.OVRL – Human capital index (HCI) (scale 0-1)* [World Bank Open Data], 21 September 2020, accessed 25 March 2024.

[vii] World Bank Group, *SE.ADT.LITR.ZS – Literacy rate, adult total (% of people ages 15 and above)* [World Bank Open Data], 21 February 2024, accessed 26 February 2024.

[viii] World Bank Group, *SP.DYN.LE00.IN DS2-Life expectancy at birth, total (years)* [World Bank Open Data], 2022, accessed 20 February 2024.

[ix] National Bureau of Statistics of China, *The average annual wage of persons employed in urban non-private units in 2022* [media release], National Bureau of Statistics of China, 10 May 2023, accessed 22 March 2024.

[x] National Bureau of Statistics of China, *The average annual wage of persons employed in urban private units in 2022* [media release], National Bureau of Statistics of China, 10 May 2023, accessed 22 March 2024.

[xi] Korean Statistical Information Service, Average Surveyed Wages by Production Job Family of Manufacturing Category(daily wages) [data set], 28 October 2013, accessed 05 March 2024; World Bank Group, *FP.CPI.TOTL.ZG – Inflation, consumer prices (annual %)* [data set], 21 February 2024, accessed 26 March 2024. The commission notes that it relied on daily average wages for manufacturing in 2012 and adjusted this for 2022 based on CPI.

[xii] Turkish Statistical Institute, *Table 4: Monthly average paid hours, gross wages and earnings by economic activity 2022* [Structure of earning statistics, 2022, data set no 49750], Turkish Statistical Institute, 25 December 2023, accessed 22 March 2024; Turkish Statistical Institute, *Indicators for the CPIs having specified coverages* [Consumer price index, December 2023], 3 January 2024, accessed 22 March 2024.

[xiii] Brazilian Institute of Geography and Statistics, *Empresa2021-Tabelas 2021-table 101- Employment, salary and charges of industrial companies with 30 or more employed people, according to division, groups and classes of activity-Brazil-2021* [data set], 2021, accessed 28 February 2024; Brazilian Institute of Geography and Statistics, *236 – IBGE indicators, national system of consumer price indices: INPC-IPCA* [data set], 2024, accessed 28 February 2024.

[xiv] Labour Bureau Ministry of Labour and Employment, Government of India, *Occupation Wages* [data set], 2023, accessed 27 February 2024.

[xv] National Institute of Statistics, *Hourly wages by Full-time Part-time* [data set], accessed 08 March 2024.