



Australian Government  
Department of Industry,  
Science and Resources

Anti-Dumping  
Commission

## Importer verification report

### Verification and case details

<b>Initiation date</b>	14/08/2023	<b>ADN</b>	ADN 2023/048
<b>Case number</b>	632		
<b>The goods under consideration</b>	Ore Carriage Railway Wheels		
<b>Case type</b>	Continuation Inquiry		
<b>Importer</b>	BHP Billiton Iron Ore Pty Ltd		
<b>Location</b>	125 St Georges Terrace, Perth, Western Australia		
<b>Verification date</b>	1/11/2023		
<b>Inquiry period</b>	1/07/2022	to	30/06/2023

The Anti-Dumping Commission will review this report, including its views and recommendations.

This report may not reflect the Anti-Dumping Commission's final position.

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## Introduction

BHP Iron Ore Pty Ltd (BHP Iron Ore) submitted data to the Anti-Dumping Commission (the commission) in response to an importer questionnaire for Continuation Inquiry 632 (case 632) into Ore Carriage Railway Wheels imported from the People's Republic of China (China) and France.

A verification team (the team) has verified whether the data BHP Iron Ore submitted was complete, relevant and accurate for use in case 632. [Anti-Dumping Notice \(ADN\) 2016/30](#) describes the commission's verification procedure.

This report explains the team's key findings, including the evidence considered and material issues identified. Where BHP Iron Ore or the team materially revised the submitted data, this report outlines the nature, extent and outcomes of these revisions.

The commission prepared this report to publish on the electronic public record for case 632.

Verification teams are authorised to conduct verifications under sections 269SMG and 269SMR of the *Customs Act 1901* (Cth) (the Act).<sup>1</sup>

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<sup>1</sup> All legal citations in this report are to the Act unless otherwise stated.

## **1 Company background**

### **1.1 Corporate structure and ownership**

BHP Iron Ore is a subsidiary of BHP Group Ltd (BHP). BHP is a publicly listed company whose main activities include the mining of copper, metallurgical coal, nickel, potash and iron ore. BHP has operations in a range of countries.

BHP Iron Ore operates as service company that engages in iron ore mining and associated activities in Western Australia, including the operation of BHP's railway network.

BHP Iron Ore purchases domestically produced and imported equipment for use in its operations. BHP Iron Ore purchases railway wheels for use on its iron ore carriages. Railway wheels purchased by BHP Iron Ore are solely used in its operations. BHP Iron Ore does not onward-sell or otherwise trade in railway wheels.

### **1.2 Related parties**

The team examined the relationships between BHP Iron Ore and parties involved in the supply and sale of the goods.

The team found that BHP Iron Ore did not have any related party suppliers of the goods during the inquiry period.

## 2 Goods under consideration

### 2.1 Importation of the goods under consideration

BHP Iron Ore confirmed that it imported goods from China during the inquiry period matching the description of the goods that are the subject of this inquiry.

### 2.2 Model control codes

Model Control Codes have not been established for the purpose of this inquiry.

### 2.3 Like goods assessment

BHP Iron Ore advised that it disputes that the wheels produced by the Australian industry member Commonwealth Steel Company Pty Ltd (Comsteel) are like goods. BHP Iron Ore claimed that the railway wheels Comsteel had previously supplied to BHP Iron Ore were unlikely to meet their current specifications and were materially inferior to the imported railway wheels.

The verification team advised that like goods could be identical or could have characteristics closely resembling those of the goods. For the assessment of like goods, the team advised that the commission used an assessment framework that considered:

- Physical likeness
- Functional likeness
- Commercial likeness
- Production likeness.

#### Physical likeness

BHP Iron Ore stated that it had not purchased wheels from Comsteel since 2018, because of quality issues. Consequently, none of the Comsteel wheels previously purchased were produced in accordance with its revised 2019 40 MT specifications (which requires higher steel cleanliness). BHP Iron Ore indicated that Whilst BHP Iron Ore had not tested Comsteel's previously supplied railway wheels against this standard, BHP Iron Ore considered it likely that they wouldn't meet the standard.

BHP Iron Ore also claimed that Comsteel has not previously supplied railway wheels meeting the specifications that Baowu Group Masteel Rail Transit Materials Technology Company Limited (Masteel) is currently supplying.

BHP Iron Ore confirmed that, if it were to obtain iron ore railway wheels from Comsteel in the future, they would be required to undergo extensive testing (laboratory and field performance), as well as a trialling period (as required by all prospective suppliers of the Goods) to ensure compliance with the new specifications. The specifications would be the same as those that currently apply to Masteel or any other supplier.

#### Functional likeness

BHP Iron Ore stated that Comsteel's Goods did not meet BHP Iron Ore's specification. As such, they were not of the same quality as the imported Masteel railway wheels.

BHP Iron Ore indicated that, due to the quality issues, Comsteel railway wheels required additional monitoring and potentially had a shorter lifespan than the railway wheels imported

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from Masteel. This additional monitoring and shorter lifespan also added to the operational cost of using the Comsteel railway wheels.

BHP Iron Ore advised that there had not been the same quality issues with the railway wheels supplied by Masteel. Additional monitoring was not required for Masteel railway wheels.

It was claimed that the lower quality of the Comsteel railway wheels increased the operational risks for BHP Iron Ore. Cracking led to higher risk of catastrophic failure of a railway wheel, which could lead to damage to its train network infrastructure, third party property damage, injury to its workers and the general public. Catastrophic failures could also interrupt its mining operations and the export of iron ore.

### Commercial likeness

BHP Iron Ore confirmed that Comsteel and Masteel competed to supply iron ore railway wheels to the same end users in the Australian market.

### Production likeness.

The verification team noted that production processes were broadly consistent between the Australian industry and import sources.

BHP Iron Ore stated that there were differences between the Australian industry's production process and overseas producers, including:

- Overseas producers had higher levels of automation in testing. Masteel had state of the art ultrasonic testing. BHP Iron Ore claimed that Masteel's Goods meet BHP Iron Ore's specifications.

Each exporter would have its own unique aspects of the production process. For the purposes of the importer verification no conclusions or findings have been drawn in relation to like goods by the verification team. BHP Iron Ore's claims will be considered in preparation of the SEF.

The verification team further discussed BHP Iron Ore's importation of flat packed iron ore carriages. BHP Iron Ore advised that it imported the carriages in a flat pack formation where the sides of the carriages and the bogies were not attached to the frame of the carriage. The railway wheels were attached to the bogey at the time of export. The verification team notes that bogies are the truck that provides the support for the vehicle body and is used to provide traction and braking on the railway track.

The verification team preliminarily finds that railway wheels imported as part of an ore carriage and attached to a bogey would not be like goods for the purposes of the inquiry.

### **3 Verification of sales completeness and relevance**

BHP Iron Ore is an end user of the goods and does not on-sell the goods. Therefore, no verification of sales completeness was completed.

## **4 Verification of sales accuracy**

BHP Iron Ore is an end user of the goods and does not on-sell the goods. Therefore, no verification of sales accuracy was completed.



## 5 Verification of imports and cost to import

### 5.1 Import listing

BHP Iron Ore provided sufficient information for the verification team to be satisfied that the import listing extracted from the Australian Border Force (ABF) import database reasonably reflected of BHP Iron Ore's imports of the goods over the inquiry period. A small discrepancy was identified, which was due to timing differences in relation to when transactions were recorded in the ABF's import database and in BHP's accounting system.

### 5.2 Verification of cost to import and sell

Prior to the verification, the commission selected twelve shipments for BHP Iron Ore to complete the cost to import spreadsheet of the importer questionnaire.

For each of the selected shipments, BHP Iron Ore provided the following source documents.

- Commercial invoices from supplier
- Remittance advices and evidence of payment
- Waybills
- Purchase orders
- Customs charges invoices

The commission typically verifies cost to import and sell (CTIS) as complete and relevant by reconciling the total cost to import and the selling, general and administrative (SG&A) expenses in cost listings up to management accounts and then audited financial accounts. ADN 2016/30 further describes this verification process. As BHP Iron Ore do not on-sell the goods, there was no verification of the SG&A. The verification team therefore sought to verify the cost to import (CTI).

The team sought to verify whether the CTI BHP Iron Ore submitted was complete, accurate and relevant by reconciling the CTI to the relevant source documents.

Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

#### 5.2.1 Exceptions during verification of CTIS

##### Exception 1

**Description:** The verification team was unable to reconcile the source documents to the allocating method used for ocean freight, port handling, other import charges and inland transport to the shipments.

**Resolution:** The verification team amended the methodology for allocating ocean freight, port handling, other import charges and inland transport to the shipments. The verification team consulted with BHP to confirm basis for these amendments.

### 5.3 CTI allocation method

**Error! Reference source not found.** outlines how the team allocated each CTI component.

<b>Cost Area</b>	<b>Method applied</b>
Ocean freight	Actual costs based on the shipping invoice
Marine insurance	As a percentage of the delivered invoice value
Duties	Actual cost based on ABF customs documentation and invoices from the customs broker
Customs fees	Actual cost based on ABF customs documentation and invoices from the customs broker
Port service charges	Actual cost based on invoices
Delivery	Actual costs based on accounting system entries

**Table 1 CTI allocation method**

### 5.4 Forward orders

The team discussed with BHP Iron Ore its likely need for the goods in the future. BHP Iron Ore confirmed that it will have an ongoing requirement for the supply of the goods into the future.

### 5.5 CTI verification finding

The team is satisfied that the CTI provided by BHP is accurate, complete, and relevant after resolving the above-mentioned exception.

A table detailing the weighted average unit CTI is at **Confidential appendix 1**.

## 6 Export price

### 6.1 The importer

The team considers BHP to be the beneficial owner of the goods at the time of importation and therefore the importer of the goods, as BHP:

- was named on the commercial invoice from its supplier
- was named as the consignee on the waybill
- was declared as the importer on the importation declaration to ABF
- paid for all the importation charges
- arranged delivery from the port.

### 6.2 The exporter

The verification team considers Masteel to be the exporter of the goods,<sup>2</sup> as they are:

- named on the commercial invoice and packing lists
- named as consignor on the waybill.

### 6.3 Related party suppliers

An examination of BHP's imports and the ABF import database confirmed that BHP imported the goods from an unrelated supplier, Masteel, during the inquiry period. The team found no evidence that BHP and its Chinese supplier of the goods were related parties in the inquiry period.

### 6.4 Arms length

In respect of imports of the goods to Australia by BHP during the inquiry period, the team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price
- the price was 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 received a benefit for, or in respect of, whole or any part of the price.

Therefore, subject to further inquiries, the verification team is satisfied that the imports between BHP and Masteel are arms length transactions.

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<sup>2</sup> The commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

## **6.5 Export price assessment**

Based on the information available to the team, in relation to the goods imported by BHP from Masteel it appears that:

- the goods have been exported to Australia otherwise than by the importer
- the goods have been purchased by the importer from the exporter(s)
- the purchases of the goods by the importer were arms length transactions.

The verification team has not made an assessment in relation to determining export prices under section 26TAB(1) of the Act. At the time finalising of this report, exporter verification is being undertaken. Information from this importer verification and the exporter verification will be used by the commission to make an assessment.

## 7 Other matters

In addition to verification of its questionnaire response, BHP Iron Ore discussed various matters regarding the continuation of the measures with the verification team. These discussions concerned the following matters:

- The multiple factors BHP Iron Ore considers in relation to its purchasing decisions for railway wheels. Information provided evidenced that BHP Iron Ore placed material weight on factors other than just price in its purchasing decisions for its railway network. These material factors included quality and safety considerations.
- The prior quality issues with Comsteel railway wheels and its engagement with Comsteel since the imposition of measures. BHP provided a summary of its engagement with Comsteel since the imposition of measures.
- BHP Iron Ore's likely future requirements for railway wheels and sources for future supply. This information indicated that BHP Iron Ore would have ongoing requirement for railway wheels.

It is noted that a range of these issues were canvassed in an earlier submission to the inquiry by BHP Iron Ore. In concluding the verification process, the verification team encouraged BHP Iron Ore to make further submissions on these issues or any further issues it considered relevant to the inquiry.

**8 Attachments**

<b>Confidential Appendix 1</b>	Cost to import
<b>Confidential Attachment 1</b>	Verification work program