



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS
NO. 384

ALLEGED DUMPING OF ALLOY ROUND BAR
EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA

27 October 2017

CONTENTS

CONTENTS.....	2
ABBREVIATIONS.....	4
1 SUMMARY AND RECOMMENDATIONS	6
1.1 INTRODUCTION	6
1.2 AUTHORITY TO MAKE DECISION	6
1.3 FINDINGS AND CONCLUSIONS.....	8
1.4 TERMINATION OF PART OF THE INVESTIGATION	9
2 BACKGROUND.....	10
2.1 INITIATION	10
2.2 PREVIOUS CASES	10
2.3 RESPONDING TO THIS SEF.....	10
3 THE GOODS AND LIKE GOODS.....	12
3.1 PRELIMINARY FINDING	12
3.2 LEGISLATIVE FRAMEWORK	12
3.3 THE GOODS	12
3.4 TARIFF CLASSIFICATION.....	13
3.5 LIKE GOODS.....	14
4 THE AUSTRALIAN INDUSTRY	16
4.1 PRELIMINARY FINDING	16
4.2 LEGISLATIVE FRAMEWORK	16
4.3 BACKGROUND.....	16
4.4 MEMBERS OF THE AUSTRALIAN INDUSTRY	16
4.5 SIZE OF THE AUSTRALIAN INDUSTRY	21
4.6 SUBMISSIONS ON STANDING	22
4.7 PRELIMINARY CONCLUSION	22
5 AUSTRALIAN MARKET	23
5.1 INTRODUCTION	23
5.2 MARKET STRUCTURE.....	23
5.3 MARKET SIZE & SHARE	26
6 DUMPING INVESTIGATION.....	27
6.1 PRELIMINARY FINDING	27
6.2 INTRODUCTION AND LEGISLATIVE FRAMEWORK.....	27
6.3 COOPERATIVE EXPORTERS	27
6.4 UNCOOPERATIVE EXPORTERS	28
6.5 MARKET SITUATION FINDING	28
6.6 BENCHMARKS FOR COMPETITIVE MARKET COSTS FOR ALLOY ROUND BAR	29
6.7 DUMPING ASSESSMENT – SUZHOU SUXIN	30
6.8 DUMPING ASSESSMENT – JIANGSU YONGGANG	32
6.9 DUMPING ASSESSMENT – DAYE SPECIAL STEEL.....	33
6.10 UNCOOPERATIVE AND ALL OTHER EXPORTER DUMPING MARGINS	35
6.11 THE COMMISSIONER’S ASSESSMENT	35
6.12 VOLUME OF DUMPED IMPORTS	35
7 ECONOMIC CONDITION OF THE INDUSTRY	36
7.1 THE COMMISSIONER’S ASSESSMENT	36
7.2 INTRODUCTION	36
7.3 APPROACH TO INJURY ANALYSIS.....	37
7.4 COMMENCEMENT OF INJURY	38

7.5	VOLUME EFFECTS.....	38
7.6	PRICE SUPPRESSION AND DEPRESSION	40
7.7	PROFITS AND PROFITABILITY	42
7.8	OTHER ECONOMIC FACTORS	43
7.9	PRELIMINARY FINDING	45
8	HAS DUMPING CAUSED MATERIAL INJURY?	46
8.1	THE COMMISSIONER’S ASSESSMENT	46
8.2	LEGISLATIVE FRAMEWORK	46
8.3	APPROACH TO CAUSATION ANALYSIS	46
8.4	SIZE OF THE DUMPING MARGIN	47
8.5	PRICE EFFECTS.....	47
8.6	VOLUME EFFECTS.....	51
8.7	INJURY CAUSED BY FACTORS OTHER THAN DUMPING	52
8.8	FINDINGS.....	59
9	NON-INJURIOUS PRICE.....	60
9.1	PRELIMINARY ASSESSMENT OF NIP.....	60
9.2	DISCUSSION	60
10	PROPOSAL TO TERMINATE INVESTIGATION	61
11	APPENDICES AND ATTACHMENTS.....	62
	APPENDIX 1 – MARKET SITUATION ASSESSMENT.....	63

ABBREVIATIONS

\$	Australian dollars
ABF	Australian Border Force
ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901</i>
the applicant	OneSteel Manufacturing Pty Ltd (OneSteel) ¹
BPC	Business Planning and Consolidation
CFR	Cost and Freight
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 384	<i>Consideration Report No. 384</i>
CTM	cost to make
CTMS	cost to make and sell
Daye	Daye Special Steel Co. Ltd
Donhad	Donhad Pty Ltd
FOB	Free on Board
GOC	Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration)
the injury analysis period	From 1 July 2012
the investigation period	1 October 2015 to 30 September 2016
the Manual	<i>Dumping and Subsidy Manual</i>
Milltech	Milltech Pty Ltd
mm	millimetres
Moly-Cop	Commonwealth Steel Company Pty Ltd trading as Moly-Cop
NIP	non-injurious price
OCOT	ordinary course of trade
PAD	preliminary affirmative determination

¹ At the time of the application, OneSteel Manufacturing Pty Ltd was subject to a deed of company arrangement. On 1 September 2017, GFG Alliance acquired the former Arrium businesses, including OneSteel Manufacturing Pty Ltd. OneSteel Manufacturing Pty Ltd was rebranded as Liberty OneSteel, a division of the Liberty Steel Group. For the purposes of this SEF the Commission has referred to the applicant as "OneSteel".

PUBLIC FILE

PAD Direction	Customs (Preliminary Affirmative Determinations) Direction 2015
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
SEF	Statement of Essential Facts
SG&A	selling, general and administrative
SIE	state invested enterprise
SOE	state owned enterprise
Stemcor	Stemcor SEA Ltd
Suzhou	Suzhou Suxin Special Steel Ct. Ltd
TKM	Thyssen Krupp Mannex
USP	unsuppressed selling price
VAT	Value Added Tax
WTO	World Trade Organization
Yonggang	Jiangsu Yonggang Group Co. Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) has been prepared in response to an application by OneSteel Manufacturing Pty Ltd (OneSteel, or the applicant) for the publication of a dumping duty notice in respect of alloy round bar exported to Australia from the People's Republic of China (China).

OneSteel alleges that the Australian industry for alloy round bar has experienced material injury caused by alloy round bar exported to Australia from China at dumped prices.

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base recommendations to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)² in relation to the application, unless this investigation is terminated earlier.

1.2 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901* (the Act)³ describes, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Parliamentary Secretary.

1.2.1 Application

The applicant alleges that the Australian industry has experienced material injury caused by exports of alloy round bar from China at dumped prices.

Having considered the application, the Commissioner was satisfied that the application was made in the prescribed manner by a person entitled to make the application. As such, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of alloy round bar from China on 10 January 2017.

Consideration Report No. 384 (CON 384) and Anti-Dumping Notice (ADN) No. 2017/02 provide further detail relating to the initiation of the investigation and are available on the Anti-Dumping Commission's (the Commission's) website at www.adcommission.gov.au.⁴

² The Minister for Industry, Innovation and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary and accordingly, the Parliamentary Secretary is the relevant decision maker. On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science.

³ All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

⁴ Refer to documents 2 and 3 on the electronic public record for Investigation 384.

1.2.2 Preliminary affirmative determination

In accordance with subsection 269TD(1), the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice, or if it appears that there will be sufficient grounds subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation (in relation to this investigation, 11 March 2017⁵) and the Commonwealth may require and take securities at the time of a PAD or at any time during the investigation after a PAD has been made if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry while the investigation continues.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs the Commissioner to publish a status report providing reasons why a PAD was not made. A status report in relation to this investigation was published on 15 March 2017.⁶

Pursuant to the PAD Direction, if the Commissioner has published a status report, the Commissioner must reconsider whether or not to make a PAD at least once prior to the publication of the SEF.

As the Commissioner is not satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of alloy round bar exported to Australia from China, no PAD under subsection 269TD(1) has been made.

1.2.3 Termination of an investigation

Section 269TDA provides for when the Commissioner must terminate an investigation.

1.2.4 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows, place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary in relation to the application.⁷

The SEF was originally due to be placed on the public record by 30 April 2017. However, the Commissioner was granted multiple extensions by the Parliamentary Secretary. The Commissioner is now required to place the SEF on the public record by no later than 27 October 2017.⁸

⁵ If a due date in this report falls on a weekend or public holiday in Victoria, the effective due date will be the following business day.

⁶ Refer to document 9 on the electronic public record for Investigation 384.

⁷ Subsection 269TDAA(1) of the Act.

⁸ The Commissioner was granted four extensions to the date on which the SEF was due. The first extension is contained in ADN No. 2017/60. The second extension is contained in ADN No. 2017/80. The third extension is contained in ADN No. 2017/104. The fourth extension is contained in ADN No. 2017/130.

1.2.5 Final report

Unless terminated earlier, the Commissioner's final report and recommendations in relation to this investigation must be provided to the Parliamentary Secretary on or before 11 December 2017.

1.3 Findings and conclusions

1.3.1 The goods and like goods (Chapter 3)

The Commissioner considers that locally produced alloy round bar is 'like' to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods.

1.3.2 Australian industry (Chapter 4)

Based on the information available, the Commissioner has found that like goods are wholly manufactured in Australia and there is an Australian industry producing like goods, consisting of OneSteel, Commonwealth Steel Company Pty Ltd trading as Moly-Cop (Moly-Cop) and Milltech Pty Ltd (Milltech).

1.3.3 Australian market (Chapter 5)

The Australian alloy round bar market is divided into several segments based on the end use of the product. Where appropriate, the Commission has considered each segment of the market separately. All segments are supplied by local production from Australian producers and by imports from several countries, the major country being China.

1.3.4 Dumping (Chapter 6)

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

Country	Exporter	Dumping Margin
China	Suzhou Suxin Special Steel Ct. Ltd (Suzhou)	35.3%
	Daye Special Steel Co. Ltd (Daye)	11.3%
	Jiangsu Yonggang Group Co. Ltd (Yonggang)	-10.8%
	Uncooperative and all other exporters	58.6%

Table 1: Preliminary dumping margins

1.3.5 Economic condition of the Australian industry (Chapter 7)

The Commissioner considers that the Australian industry has experienced injury in the form of:

- reduced market share;
- loss of sales volume;
- price depression;

- price suppression;
- reduced profits;
- reduced profitability; and
- the other injury factors as outlined in section 7.8.3.

1.3.6 Causation assessment (Chapter 8)

The Commissioner considers that the dumped exports of alloy round bar from China have caused negligible injury to the Australian industry.

1.3.7 Non-injurious price (Chapter 9)

The Commission has calculated a non-injurious price (NIP) for the purposes of assessing causation.

1.3.8 Proposal to terminate investigation (Chapter 10)

Based on the findings in this SEF, and subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation in accordance with subsection 269TDA(13), because the injury to the Australian industry that has been, or may be, caused by dumped exports from China is negligible.

1.4 Termination of part of the investigation

Based on the findings contained in this SEF the Commissioner has found that for the goods exporter to Australia by Yonggang, there has been no dumping of any of the goods. Therefore the Commissioner has terminated the investigation in accordance with subsection 269TDA(1)(b)(i) in so far as it relates to that exporter. ADN 2017/152 provides public notice of this decision in accordance with subsection 269TDA(15).

2 BACKGROUND

2.1 Initiation

On 15 November 2016, the applicant lodged an application under subsection 269TB(1) for the publication of a dumping duty notice in respect of alloy round bar that has been imported into Australia from China.

OneSteel alleges that the Australian industry for alloy round bar has experienced material injury caused by alloy round bar being exported to Australia from China at dumped prices. OneSteel alleges that the industry has been injured through:

- loss of sales volume;
- loss of market share;
- price undercutting;
- price depression;
- price suppression;
- reduced revenues;
- reduced profits;
- reduced profitability;
- reduced return on investment; and
- reduced employment.

Having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of alloy round bar from China on 10 January 2017. ADN No. 2017/02 provides further details relating to the initiation of the investigation and is available on the Commission's website at www.adcommission.gov.au.

In respect of the investigation:

- the investigation period for the purpose of assessing dumping is 1 October 2015 to 30 September 2016; and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by dumping is from 1 July 2012.

2.2 Previous cases

No previous cases regarding alloy round bar have been undertaken by the Commission.

2.3 Responding to this SEF

This SEF represents an important stage in the investigation. It informs interested parties of the facts established and allows them to make submissions in response to the SEF. It is important to note that the SEF may not represent the final views of the Commissioner.

PUBLIC FILE

Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses in making his final decision or recommendation to the Parliamentary Secretary.

Responses to this SEF should be received by the Commissioner no later than 16 November 2017. 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 any report to the Parliamentary Secretary.

Unless terminated earlier, the Commissioner must report to the Parliamentary Secretary by 11 December 2017.

Submissions should preferably be emailed to investigations1@adcommission.gov.au. Alternatively they may be posted to:

Director Operations 1
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. A guide for making submissions is available at the Anti-Dumping Commission's website www.adcommission.gov.au.

The Public Record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available by request in hard copy in Melbourne (phone (03) 8539 2477 to make an appointment), or online at www.adcommission.gov.au.

Documents on the Public Record should be read in conjunction with this SEF.

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The Commissioner considers that the locally manufactured alloy round bar is a like good to the goods the subject of the application.

3.2 Legislative framework

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

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

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

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

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

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

3.3 The goods

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

Hot-rolled solid sections of ‘alloy steel’, having round or near-round cross-sectional dimensions of not less than 9.5 millimetres (mm) and not greater than 98.5 mm, not in coil.

For the purpose of the description of the goods the subject of this application, ‘alloy steel’ here means steel containing a chemical composition that at least meets or exceeds the minimum chemical element proportions specified in Note (f) “Other alloy steel” to Chapter 72 under Schedule 3 of the *Customs Tariff Act 1995* (“the Tariff”) as appearing on the date of this application.

Commonly identified as ‘rod’, ‘round bar’, ‘engineering bar’, ‘spring steel’, ‘alloy bar’, ‘high alloy bar’, ‘silico-manganese bar’, ‘grinding rod’ or ‘bar used for the production of grinding media’, the goods covered by this application include all round or near-round hot-rolled solid sections of alloy steel bar meeting the above description of the goods regardless of

the particular grade, coating, or minor modification of bar-end finish (including but not limited to, painting or chamfering).

Goods excluded from this application are:

- round or near-round hot rolled solid steel sections composed of:
 - 'stainless steel' as defined under Note (e) "Stainless steel" to the Tariff; or
 - 'high-speed steel' as defined under Note (d) "High speed steel" to the Tariff;
- steel reinforcing bar containing indentations, ribs, grooves or other deformations produced during the rolling process;
- steel rod in coil;
- chromium plated steel; and
- solid sections of steel which may be square, rectangular or hexagonal in cross-section.

3.4 Tariff classification

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

Tariff classification (Schedule 3 of the <i>Customs Tariff Act 1995</i>)				
<i>Tariff code</i>	<i>Statistical code</i>	<i>Unit</i>	<i>Description</i>	<i>Duty rate</i>
72282010	44	Tonnes	Alloy bars, silico-manganese steel, flattened circles	5% DCS ⁹ : 4% DCT ¹⁰ : 5%
72282090	47	Tonnes	Other alloy bars, silico-manganese steel	5% DCS: 4% DCT: 5%
72283010	70	Tonnes	Alloy bars, high alloy steel, flattened circles	5% DCS: 4% DCT: 5%
72283090 ¹¹	41	Tonnes	Other alloy bars	5% DCS: Free DCT: Free
72286010	72	Tonnes	Other alloy bars, high alloy, flattened circles	5% DCS: 4% DCT: 5%
72286090	55	Tonnes	Other alloy bar	5% DCS: Free DCT: Free

⁹ 'DCS' denotes the rate for countries and places listed in Part 4 of Schedule 1 of the *Customs Tariff Act 1995*.

¹⁰ 'DCT' denotes the rate for Hong Kong, the Republic of Korea, Singapore and Taiwan.

¹¹ Operative since 1 July 2015.

3.5 Like goods

3.5.1 Points raised by OneSteel

OneSteel claims that the alloy round bar manufactured locally is a like good to the imported alloy round bar. As outlined in the application, OneSteel states that alloy round bar is manufactured in accordance with either the industry standards applicable or the customer-specific requirements applicable to the different types of alloy round bar produced. It states that both the locally produced alloy round bar and the imported product can broadly be divided into segments, being engineering bar, spring steel bar, strata bar and bar used for grinding media. OneSteel claims that for each segment of the market, the locally produced alloy round bar and the imported product have the same primary physical characteristics, are used for the same purpose, are used by the same customers and are manufactured in a similar manner.

3.5.2 The Commissioner's assessment

The Commissioner must consider whether the locally manufactured product is like to the goods the subject of the application. The Commission gathered evidence from OneSteel, Milltech, Moly-Cop and both importers and exporters. The Commission's determination with regards to the like goods framework can be outlined as follows:

Physical likeness

The Commission determined that the locally produced alloy round bar and the imported alloy round bar meet the minimum requirements under Note (f) to Chapter 72 of Schedule 3 to the *Customs Tariff Act 1995*. The Commission confirmed that the locally produced product and the imported alloy round bar share the same shape, are within the dimensional requirements of the goods description, and broadly share the same specifications and mechanical properties (albeit with subtle differences for the different segments of the alloy round bar market). This includes certain heat and/or surface treatments which may be applied to the bar. Given this, the Commission considers them to be physically like.

Commercial likeness

The Commission has determined that the locally manufactured alloy round bar and the imported alloy round bar compete in the same market, with evidence of customers using both imported and locally produced products during the injury analysis period. Where the locally manufactured goods do not compete in the direct market but are used for captive production, the Commission considers that the locally manufactured goods are similarly positioned within the market segment in that they are manufactured to compete in the same downstream market as products made with the imported alloy round bar (this is discussed further in Chapter 5, below). The Commission therefore considers them to be commercially like.

Functional likeness

During the investigation the Commission established that within each segment of the alloy round bar market, the imported alloy round bar has the same end use as the alloy round bar manufactured by members of the Australian industry, thus they are considered to be functionally like.

Production likeness

The investigation confirmed that alloy round bar is manufactured in a similar manner both locally and in China, with the same raw materials used to form liquid steel, which is then used to create steel billets. These steel billets are then hot-rolled into round bar. While there are subtle differences in certain steps of the process, the Commission considers the locally manufactured alloy round bar and the imported alloy round bar to be produced using similar production methods.

Based on the above, the Commissioner considers the locally produced alloy round bar to be like to the imported alloy round bar.

4 THE AUSTRALIAN INDUSTRY

4.1 Preliminary finding

The Commissioner finds that like goods are wholly manufactured in Australia and that the Australian industry as a whole consists of OneSteel, Moly-Cop and Milltech.

The Commissioner has verified production volumes of like goods produced by the Australian industry members across the investigation period. The Commissioner finds that Moly-Cop is the largest manufacturer of alloy round bar.

4.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Subsections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

Subsection 269T(4) states that if there is a person or persons who produce like goods in Australia, there is an Australian industry in respect of those like goods.

4.3 Background

In its application, OneSteel claims that it is the largest manufacturer of like goods in Australia. Moly-Cop was also named in the application as an Australian manufacturer of grinding rod, which is alloy round bar that has been cut to length. The Commission accepted this in CON 384.

During the investigation, the Commission received submissions claiming that Moly-Cop’s production of alloy round bar meant that Moly-Cop was the largest manufacturer of like goods in Australia. The Commission has considered this in section 4.6 below. The Commission also received submissions questioning if heat treated alloy round bar was part of the goods description, and consequently, if Australian producers of heat treated bar were part of the Australian industry producing like goods. The Commission has considered this in section 4.4.3 below.

4.4 Members of the Australian industry

4.4.1 OneSteel

The Commission verified the production processes undertaken by OneSteel. Through the integrated Whyalla facility, molten iron from the blast furnace undergoes a desulphurisation treatment in the charging ladle and is then used as the primary ferrous input to the Basic Oxygen Furnace. Scrap and fluxing agents constitute the balance of the input materials into the furnace. Following the reduction process through the high speed injection of pure oxygen, liquid steel is tapped into a ladle with the bulk of the required alloy additions being made during this tapping process.

Final alloy trimming additions and temperature corrections are made at the ladle furnace prior to casting. The liquid steel is continuously cast into square billets on a billet caster. Following the continuous casting process, based on the hydrogen level measured in the liquid steel during the billet casting process, the grade chemistry and the end use application for which the steel will be used, the most appropriate process option available is selected.

Depending on the final cross-section required for the round bar, the dimensional tolerance and surface finish required by the end-use application and the bar mill design capabilities, the billets will then be hot-rolled into round bar through bar mills.

The rolling process involves charging the billets into a reheating furnace where the billets are heated to a temperature exceeding 1000°C. The hot billet is then fed through a series of rolling stands which effects a change in shape from square to circular while reducing the cross-sectional area. The alloy round bar produced through the rolling process is then cut to length and packed into bundles.

The Commission is satisfied that the alloy round bar produced by OneSteel is wholly manufactured in Australia.

4.4.2 Moly-Cop

Moly-Cop is a producer of alloy round bar for self-supply in the production of grinding media. During the investigation period, Moly-Cop was a wholly owned subsidiary of the Arrium Group. The sale of Moly-Cop to American Industrial Partners was finalised on 4 January 2017.

Donhad Pty Ltd (Donhad) is the major customer of OneSteel, and purchases alloy round bar for the purpose of manufacturing grinding balls. Donhad claims that, during the investigation period, Moly-Cop was in fact the largest producer of alloy round bar in Australia.¹²

OneSteel claims that it is the largest and only producer of grinding bar in Australia.¹³ OneSteel submit that Moly-Cop is not a producer of grinding bar, but rather a producer of mining consumable products. According to OneSteel, anything 'upstream to these finished products are treated as WIP (work-in-progress) by Moly-Cop. The company does not trade or deal in the Australian domestic market for the sale of grinding bar.'¹⁴

Definition of "Australian industry"

In order to determine what aspects of Moly-Cop's production form part of the Australian industry producing like goods, it is necessary to determine the scope of the 'Australian industry' for the purpose of Part XVB. Although the Act does not define 'Australian industry', subsection 269T(4) states that if there is a person or persons who produce like goods in Australia, there is an Australian industry in respect of those like goods.

¹² Refer to document 6 on the electronic public record for Investigation 384.

¹³ Refer to document 12 on the electronic public record for Investigation 384.

¹⁴ Ibid, page 2.

The activity that defines if there is an Australian industry producing like goods is that of production. The threshold test for production is set out in subsections 269T(2) and (3). Those subsections state that the goods produced by the Australian industry must be wholly or partly manufactured in Australia.

The Commission considers that there is no limitation in Part XVB which restricts the definition of Australian industry to the producers of like goods that are wholly or partly manufactured in Australia *and* compete in the domestic market. The test is one of production of like goods. As discussed in Chapter 3, above, alloy round bar produced by Moly-Cop is a like good to the goods under consideration. The Commission considers that although OneSteel claims that grinding bar produced by Moly-Cop is treated as 'work-in-progress' by the company and is not traded on the domestic market, this does not prevent Moly-Cop from being part of the Australian industry for alloy round bar.

The *Dumping and Subsidy Manual* (the Manual) states that 'the Australian industry is the sum total of the industry in Australia (not any part, whether that part be defined by geography, market, or any other criteria).'¹⁵ The Manual goes on to say that '[a]s production, not sales, defines an industry, market sectors, differing end use, and downstream market structure are irrelevant determinants of an industry as whole'.¹⁶

Moly-Cop's production process

The Commission visited Moly-Cop and verified the production processes undertaken by the company. Moly-Cop operates an integrated steel manufacturing facility at Waratah. It produces liquid steel using an electric arc furnace, with steel scrap as the primary raw material. Alloys are added to liquid steel, before it is cast into billets. These billets are then hot rolled into alloy round steel bar used in the production of grinding media, referred to as 'grinding bar'.¹⁷ The grinding bar is used as feed material to produce grinding balls either through a roll forming or upset forge process. Moly-Cop also produces grinding rod, which is grinding bar that has been cut to length. The production of grinding bar by Moly-Cop is exclusively for self-supply for the production of grinding media.

In accordance with the Act, and the Commission's normal practice as set out in the Manual, the Commission considers that Moly-Cop is part of the Australian industry not only with respect to its production of grinding rod, but also through its production of grinding bar. The Commission is satisfied that Moly-Cop is part of the Australian industry producing like goods and that the goods are wholly manufactured in Australia.

4.4.3 Milltech

As set out in the file note dated 7 June 2017 available on the public record,¹⁸ the Commission has determined that the goods description contained in OneSteel's application includes alloy round bar that has undergone heat and/or surface treatments.

¹⁵ Page 16 refers.

¹⁶ Page 20 refers.

¹⁷ Refer to document 14 on the electronic public record for Investigation 316.

¹⁸ Refer to document 32 on the electronic public record for Investigation 384.

The Commission reached this conclusion after publishing a position paper on the public record and considering submissions in response to the position paper.

Position paper – scope of the goods description

After initiating the investigation, a number of different parties made submissions about the scope of the goods description, presenting conflicting views.¹⁹ Thyssen Krupp Mannex (TKM), an importer of alloy round bars, claimed that OneSteel only produce alloy round steel bars in the “as rolled” or “black” condition which are not semi or finished peeled, peeled and polished or centreless ground. TKM further claimed that OneSteel does not produce any heat treated (quenched and tempered) alloy steel bars for certain grades. However, the heat treated alloy round bar that TKM imports does not have its own distinct or discrete customs tariff classification, and are imported under the same tariff codes as the goods the subject of the investigation.

OneSteel claimed that it sees nothing in the description of the goods contained in ADN No. 2017/02 that confined the goods under consideration to being those that were “as rolled” or with a “black” surface condition. In OneSteel’s submission, the goods description does include alloy steel bars which are semi or finished peeled, peeled and polished or centreless ground, as well as heat treated (quenched and tempered).

The Commission published a position paper setting out its preliminary view that hot rolled alloy round bar means ‘as rolled’.²⁰ Therefore the Commission’s preliminary view was that alloy round bar that has been heat treated is not a like good to goods within the goods description.

In response to the position paper, OneSteel submitted that the description of ‘hot rolled’ is not intended to mean ‘as rolled’, but is a process to differentiate the bar that has been ‘cold rolled’.²¹ Stemcor SEA Ltd (Stemcor) and Donhad submitted that heat treated alloy round bar has different physical, commercial, functional and production attributes to engineering or spring steel, the most common form of alloy round bar to receive heat treatments.²²

After considering the submissions from interested parties, the Commission has determined that the description of alloy round steel bar as ‘hot rolled’ in the goods under consideration differentiates the bar from alloy round steel bar that is finished at lower temperatures than the process for hot rolling, commonly referred to as ‘cold rolled’.²³ The goods description includes alloy round steel bar that is commonly referred to as ‘engineering bar’ and ‘spring steel’. The Commission accepts that ‘engineering bar’ and ‘spring steel’ can be a description of alloy round steel bar which has been further processed through the application of heat and/or surface treatments.

¹⁹ Refer to documents 6, 7 and 11 on the electronic public record for Investigation 384.

²⁰ Refer to document 19 on the electronic public record for Investigation 384.

²¹ Refer to document 22 on the electronic public record for Investigation 384.

²² Refer to documents 23 and 24 on the electronic public record for Investigation 384.

²³ Refer to document 32 on the electronic public record for Investigation 384.

The Commission considers that alloy round bar which has been subject to heat and/or surface treatment is not excluded from the goods description. In response to the position paper, the Commission received a submission from Milltech, which identified itself as a producer of heat treated alloy round bar.²⁴

Milltech's production process

Milltech is a manufacturer of processed alloy round bar, specifically engineering bar. The Commission visited Milltech to verify its production process. Milltech purchases alloy round bar, sourced from domestic producers and imports. Milltech processes round bars in a number of different ways, including drawing, peeling, polishing, precision grinding, quenching and tempering, induction hardening and chrome plating.

Not all products produced by Milltech are like goods to the goods under consideration. Further, some goods produced by Milltech are specifically excluded by OneSteel in its application. For the purposes of this investigation, the Commission considers that the like goods produced by Milltech consist of heat treated and peeled alloy round bar. Milltech produces like goods at two facilities - undertaking quenching and tempering at Tomago, NSW, and peeling at Hexham, NSW.

The Commission notes that for engineering bar which has been processed using imported round bar as feed material, the like goods are not wholly manufactured in Australia. Heat treatment and peeling are significant and separate process to the production of alloy round bar. 'As rolled' alloy round bar requires further work by customers before use. Milltech can vary heat treatment to produce a range of mechanical strength properties to meet specific customer requirements. The peeling process produces a bar that has a surface free of defects and is more dimensionally accurate than an unpeeled bar. The Commission considers that the processes undertaken by Milltech to produce heat treated and peeled bar involve a substantial manufacturing process undertaken in Australia.

The Commission is satisfied that Milltech is part of the Australian industry producing like goods, and that the goods produced by Milltech are either wholly, or partly manufactured in Australia.

Precision ground bars

During the verification visit to Milltech, the visit team identified a certain quantity of precision ground bars, for which data was not provided. The visit team noted in their report that the case team would determine whether these bars should be included in the goods description.²⁵

On 15 September 2017, Milltech provided a submission in relation to these bars.²⁶ Milltech noted that, in their view, the precision ground bars did not fit within the goods description due to differences in the physical qualities of the bars, and a lack of likeness from a commercial, functional and production likeness.

²⁴ Refer to document 25 on the electronic public record for Investigation 384.

²⁵ Refer to document 40 on the electronic public record for Investigation 384.

²⁶ Refer to document 43 on the electronic public record for Investigation 384.

Having considered the available information, the Commission notes that the goods description does not explicitly provide for whether the bar is in an interim or finished state (besides the exclusions listed), nor does it provide for only certain modifications or finishes. Having expanded the scope of the goods description to include both heat-treated and surface-treated bars, the Commission considers it is inappropriate to then limit the description to bars that are treated only a certain number of times – a limitation which may have been included at the time of the application if it was intended.

The Commission notes the points raised by Milltech, namely that:

- the precision ground bars are manufactured to a different standard and tolerance;
- the precision ground bars compete in a different market to the other bars; and
- the precision ground bars are not interchangeable with the other alloy round bars.

However, the Commission understands that the alloy round bars produced for each of the different market segments (grinding bars, engineering bars, spring and strata bars) can be described in the same terms as above. For example – the bars specifically for grinding media are not interchangeable with those for engineering purposes, compete in a separate market and have subtle production differences and standards. This does not preclude each of these different bars from being part of the goods description.

For this reason the Commission considers the precision ground bars of Milltech to fall under the scope of the goods description. The inclusion of these bars impacts on the size of the Australian market. However, the Commission notes that Milltech has not claimed injury to these bars, and stated it does not have evidence of imports of these bars.

4.5 Size of the Australian industry

The Commission has verified the production of all Australian industry members of alloy round bar. Figure 1, below, represents the total volume of production for the investigation period for OneSteel, Moly-Cop and Milltech.

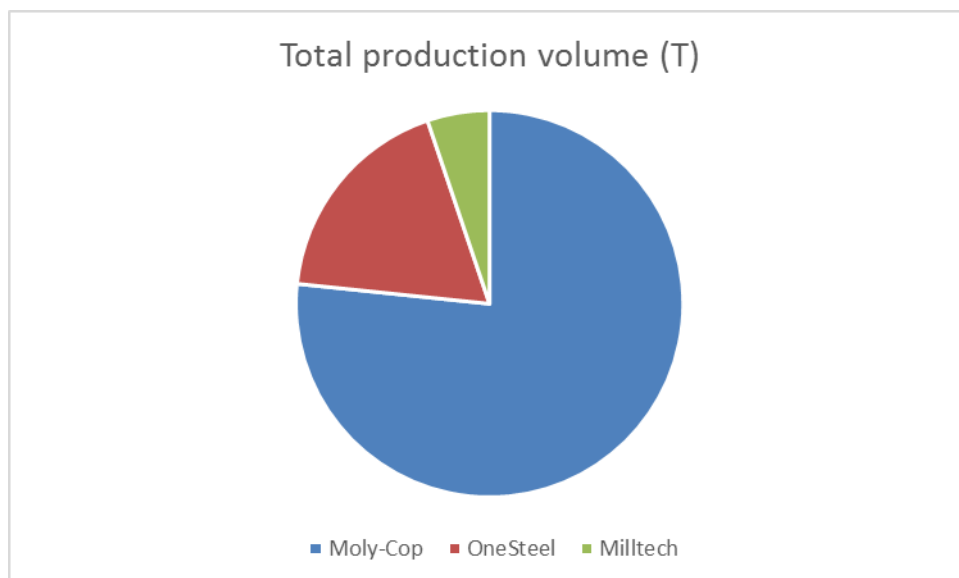


Figure 1: Total production of alloy round bar from 1 October 2015 to 30 September 2016

4.6 Submissions on standing

Donhad submits that the applicant does not comply with the minimum required production volumes to meet the standing requirements of the Act.²⁷

In accordance with the Commission's normal practice, the applicant's standing was evaluated at the time of initiation. At that time, the Commissioner considered that OneSteel represented 95 per cent of the total Australian production of alloy round bar and therefore met the necessary thresholds (i.e. OneSteel accounted for more than 25 per cent of the total production of the goods, and as the applicant accounted for greater than 50 per cent of production and supported the application).

As a result of the views provided on the scope of the goods description, and the necessary revision of the parties that comprise the Australian industry, the Commission notes that OneSteel is no longer the largest volume producer amongst the Australian industry. However, Moly-Cop has not expressed a view on whether it supports or opposes the investigation. As a result, the Commission remains satisfied that the relevant threshold test has been met and has not revisited the standing decision.

4.7 Preliminary conclusion

The Commissioner is satisfied that there are like goods wholly, or partly, manufactured in Australia. The Commission considers that the Australia industry as a whole consists of OneSteel, Moly-Cop and Milltech.

²⁷ Refer to document 6 on the electronic public record for Investigation 384. The relevant provisions are subsection 269TB(4)(e) and 269TB(6).

5 AUSTRALIAN MARKET

5.1 Introduction

The Commission distinguishes the direct market for alloy round bar from the captive production of alloy round bar. The Australian industry members that sell in the direct market for like goods are OneSteel and Milltech. Captive production, however, covers transfers of the like product by Moly-Cop to produce grinding media, which are downstream products. The Commission notes that Moly-Cop produces a small volume of goods, grinding rods, which are sold in the direct market and are considered to be like goods to the goods under consideration. Moly-Cop's captive production was discussed at section 4.4.2 above.

The Commission considers that the Australian market for alloy round bar is supplied by OneSteel, Milltech, Moly-Cop and imports from various countries, with a majority of imported supply coming from China. The Commission has estimated the size of the Australian market during the investigation period was approximately 119,000 tonnes.

Alloy round bar is sold into four distinct market segments. The market segments are driven by different end uses depending on the grade of bar, and any heat or surface treatments applied. Alloy round bar is generally not substitutable between various segments. This is discussed at section 5.2.2, below.

5.2 Market structure

There is not a homogenous market for alloy round bar in Australia. Moly-Cop produce alloy round bar predominantly for self-supply, with a minor volume of grinding rods also produced which meets the goods description. In the direct market for alloy round bar, OneSteel, Milltech and imported goods are sold into four distinct market segments.

Confidential Attachment 1 sets out the structure of the Australian industry and distinct market segments.

5.2.1 Market segments

Alloy round bar is sold into four distinct market segments depending on the grade of steel and end use:

- grinding bar;
- engineering steel;
- spring steel; and
- strata bar, or rockbolt.

Due to the differences in end use determined by varying chemical and mechanical properties of alloy round bar, and the resulting wide range of prices, alloy round bar is not substitutable between the different market segments. Figure 2, below, shows that the largest market segment determined by sales of Australian industry in the direct market during the investigation period is grinding bar.

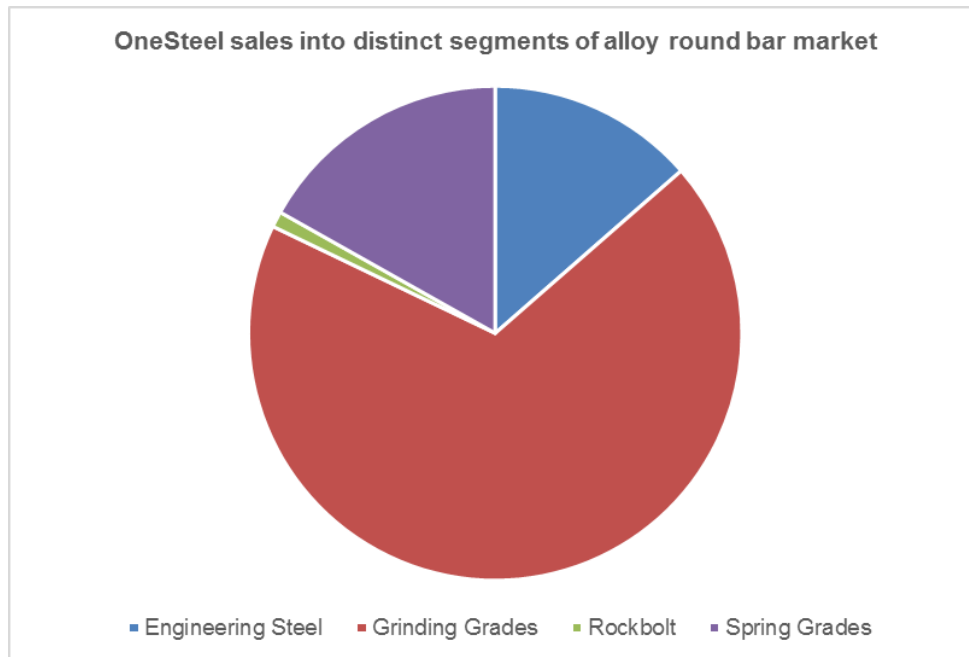


Figure 2: Sales by OneSteel into market segments

Grinding bar

OneSteel is the only Australian industry member that supplies grinding bar to the direct market. Grinding bar is used as a feedstock in the production of grinding media. Grinding media is a consumable product used in the mining sector. Fluctuations in the mining sector drives demand for grinding bar. OneSteel claimed that strong demand in the first quarter of 2016 enabled prices to be slightly higher than normal. There can be minor fluctuations depending on new mine sites becoming operational.

The Commission understands that there is limited competition in the grinding bar market. OneSteel has maintained a stable customer base throughout the injury analysis and investigation periods. The Commission understands that it is necessary for processors of grinding bar to have guaranteed, and therefore diversified, supply.

OneSteel engages in ad hoc negotiation for the price of grinding bar. The Commission found that the price per tonne did not deviate significantly over the investigation period. Grinding bar is manufactured to customer specific standards. Due to the requirement to meet customer specific standards in respect of the quality of grinding bar, the Commission has found that although the grinding bar market is price sensitive, grinding bar produced by OneSteel competes with imports in respect of price and quality. This is discussed further in Chapter 7, below.

The largest volume of imported grinding bar is from China. The Commission has found that over 90 per cent of all imported alloy round bar under consideration is grinding bar. Market share is discussed further at section 5.3 below.

Engineering bar

Both OneSteel and Milltech supply engineering bar to the direct market. OneSteel supply alloy round bar which is used as feedstock to be further processed. Milltech is a specialist engineering bar processor, using feedstock round bar as the raw material to produce alloy

round bar with heat and or surface treatments. Engineering bar is used in the manufacture and maintenance of equipment across a range of industries.

The Commission has found the size of the engineering steel market has increased slightly over the investigation period. The Commission notes that imports of engineering bar includes countries other than China.

The Commission understands that OneSteel negotiate prices for feedstock engineering bar on longer cycles than the ad hoc negotiations for grinding bar, usually 3 to 6 months cycles.

Spring steel & Strata bar

OneSteel supplies alloy round bar to be used in the spring steel and strata bar markets. Spring steel is commonly used in the manufacture of rail clips. Demand is dependent on specific projects. The Commission has found the size of the spring steel market has increased slightly over the investigation period.

Strata bar is used in mining operations, particularly in the development stages. The Commission notes that the size of the rockbolt bolt market has decreased over the investigation period. The Commission considers that the volumes of strata bar sold by Australian industry, and imported into Australia, is immaterial.

The Commission notes that imports of spring steel and strata bar are primarily from countries other than China. The Commission understands that prices are negotiated on 3 to 6 month cycles.

5.2.2 Market distribution

Alloy round bar is an intermediary good. OneSteel sell a majority of alloy round bar directly to further processors. A small volume is sold to distributors. The Commission notes that OneSteel sells approximately 1 per cent of alloy round bar to a related party customer. A majority of Milltech's sales are to distributors, which also purchase imported goods.

5.3 Market size & share

Based on verified sales data of the Australian industry selling to the direct market and verified import data, the Commission has estimated the size and share of the total direct market for alloy round bar in Figure 3, below. Figure 3 shows that while the total size of the alloy round bar market has remained stable during the injury analysis period, the Australian industry's market share has decreased significantly during the investigation period. The Commission notes that this analysis does not include the volume of grinding rods sold by Moly-Cop during the injury analysis period, as this data has not been received at this point in time.

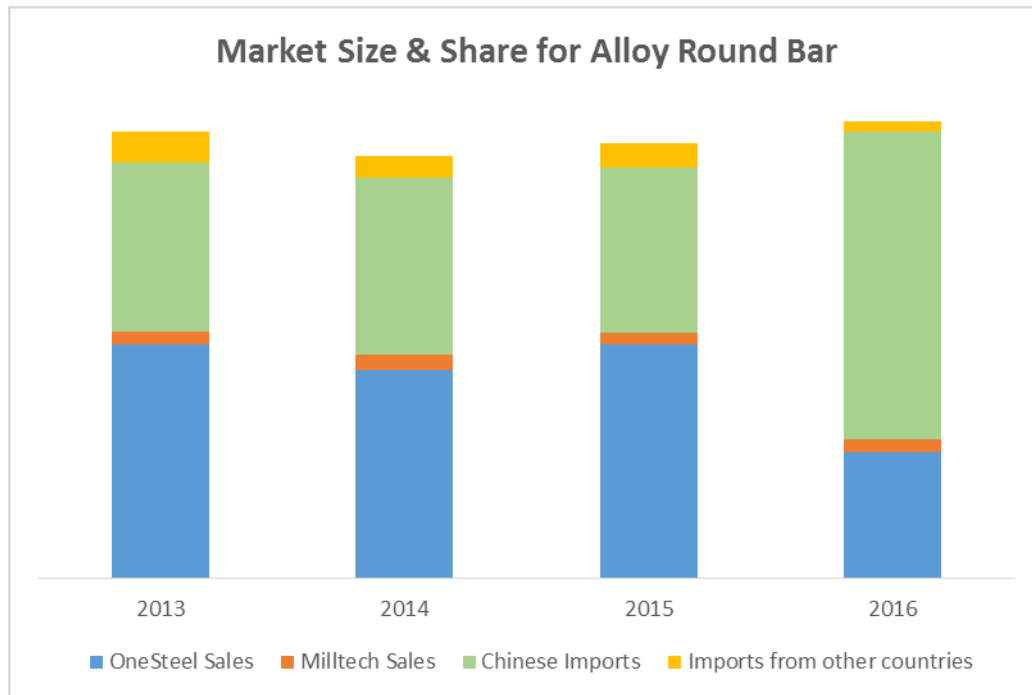


Figure 3: Market size and share for alloy round bar

The Commission notes that this chart is materially different from the market share chart that was depicted in the Australian industry verification visit report.²⁸ During the course of the investigation the Commission noted some inconsistencies with the import data obtained from the Australian Border Force (ABF) for the period of time during the first three years of the injury analysis period. To address these concerns, the Commission sought verified information from both the major importer of alloy round bar from China, and the major customer for alloy round bar in Australia. Having cross-checked this verified data, the Commission has updated the import volumes for the first three years of the injury analysis period. The Commission notes that there were no concerns with the import data for the investigation period.

²⁸ Refer to document 20 on the electronic public record for Investigation 384.

6 DUMPING INVESTIGATION

6.1 Preliminary finding

The Commissioner has found that:

- alloy round bar exported to Australia by Suzhou and Daye during the investigation period was dumped;
- Yonggang was not found to be dumping; and
- the volume of dumped goods from China was not negligible.

The preliminary dumping margins are summarised in Table 2, below.

Country	Exporter	Dumping Margin
China	Suzhou Suxin Special Steel Ct. Ltd (Suzhou)	35.3%
	Daye Special Steel Co. Ltd (Daye)	11.3%
	Jiangsu Yonggang Group Co. Ltd (Yonggang)	-10.8%
	Uncooperative and all other exporters	58.6%

Table 2: Preliminary dumping margins

6.2 Introduction and legislative framework

In any report to the Parliamentary Secretary under subsection 269TEA(1) following a dumping investigation, the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Dumping margins are determined under section 269TACB. For all dumping margins calculated, the Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

6.3 Cooperative exporters

Subsection 269T(1) provides that, in relation to a dumping investigation, an exporter is a 'cooperative exporter' where the exporter's exports were examined as part of the investigation and the exporter was not an 'uncooperative exporter'. At the commencement of the investigation, the Commission contacted known exporters of the goods and each identified supplier of the goods within the relevant tariff subheading for alloy round bar as

identified in the ABF import database, and invited them to complete an exporter questionnaire. The Commission received completed exporter questionnaire responses from the following exporters:

- Suzhou;
- Yonggang; and
- Daye.

The Commission undertook a verification visit to Suzhou and conducted desktop verification of Yonggang and Daye. These exporters are considered to be cooperative exporters.

6.4 Uncooperative exporters

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

The Commission received three responses to its exporter questionnaires. These exporter questionnaire responses were complete (noting the further data requested from Daye, as outlined below in section 6.9.1) and enabled the Commission to conduct either a verification visit or undertake desktop verification.

The Commission considers those exporters that did not provide a response to the exporter questionnaire to be uncooperative in that they did not give the Commissioner information considered to be relevant to the investigation. For uncooperative and all other exporters, given that these exporters have not provided relevant information via a response to the exporter questionnaire, the Commissioner will use subsection 269TAB(3) and subsection 269TAC(6) to calculate dumping margins for those exporters, having regard to all relevant information and as required by subsection 269TACAB(1).

6.5 Market situation finding

In the application, it was submitted that a particular market situation exists in the Chinese alloy round bar market such that the domestic selling prices of alloy round bar in the Chinese domestic market are not suitable for establishing normal values under subsection 269TAC(1). The applicant alleges that alloy round bar prices in China are artificially lower, or not substantially the same as they would be if they were determined in a competitive market.

After having considered these allegations, the Commission has formed a view that normal values cannot be ascertained under subsection 269TAC(1) because there is a particular market situation in the Chinese domestic alloy round bar market such that sales in that market are not suitable to be used in determining a price under subsection 269TAC(1).

The Commissioner’s preliminary assessment of a particular market situation in China for alloy round bar is in **Appendix 1**.

6.6 Benchmarks for competitive market costs for alloy round bar

As the Commissioner considers that there is a particular market situation in China, normal values may be determined on the basis of a cost construction²⁹ or third country sales.³⁰ Normal values were constructed under subsection 269TAC(2)(c) and, as required by subsections 269TAC(5A) and 269TAC(5B), in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation).

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

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

The Commission considers that direct and indirect influences of the GOC in the iron and steel industry is most pronounced in the part of that industry that might be described as upstream from alloy round bar production. In particular, the GOC affects Chinese manufacturers' costs to produce steel billet which in turn is used to produce alloy round bar.

Accordingly, to account for the effects of the GOC's influence, the Commission has replaced Chinese manufacturers' steel billet costs with appropriate competitive market costs for steel billet. The order of preference to do so below is in accordance with the Commission's policy which has regard to the principles established in World Trade Organization (WTO) Appellate Body findings as follows:

- i. private domestic prices;
- ii. import prices; and
- iii. external benchmarks.

6.6.1 Private domestic prices

The Commission considers that private domestic prices of steel billet may be equally affected by GOC influence and therefore not suitable for benchmarking the exporter's CTMS. Privately-owned entities did not participate in the investigation and provide data relating to their sales of alloy round bar, thus the Commission was not able to assess whether there were differences between steel billet prices from state invested enterprises (SIE) and private suppliers. Therefore, the Commission considers that private domestic prices of steel billet in China are not suitable for determining a competitive market cost which is free from government influence.

²⁹ Subsection 269TAC(2)(c) of the Act.

³⁰ Subsection 269TAC(2)(d) of the Act.

6.6.2 Import prices

Based on the data supplied by cooperating exporters and gathered by the Commission, the Commission considers that prices of imported steel billet sold in China are not suitable as a benchmark to reflect competitive market prices due to the lack of import penetration of steel billet and the likelihood that import prices were equally affected by the government influences on domestic prices.

6.6.3 External benchmarks

The Commission has considered an external benchmark in constructing the cost of the steel billet based on the inputs of the steel billet itself together with ferro-alloys. The methodology for the Commission's proposed benchmark construction of this cost is outlined at section 6.7.3.

6.6.4 OneSteel submission dated 14 August 2017

OneSteel made a submission regarding the selection of a comparable cost benchmark in determining exporters' normal values under subsection 269TAC(2)(c)(i), if the Commission were to find that a particular market situation exists in China's domestic market for alloy round bar. In summary, OneSteel refer to other investigations currently on foot with the Commission (investigations 416³¹ and 418³²) and that the Commission should utilise comparable, domestic-based prices which are capable of adaption from those investigations.

As noted by OneSteel, the investigation periods for those two cases overlap with the investigation period in this case for 6 months (from 1 April 2016 to 30 September 2016). The Commission considered utilising the verified raw material costs from these investigations for a comparable country to China, but did not establish a reasonable method by which to extrapolate the data for the remaining 6 months of the investigation period. This is especially important given the fluctuations in steel prices from quarter to quarter. In light of the difficulty in extrapolating this data for the full investigation period, the Commission considers that in this circumstance it is more appropriate to rely on the benchmark as outlined in section 6.7.3.

6.7 Dumping assessment – Suzhou Suxin

6.7.1 Verification

The Commission conducted an in-country visit to Suzhou's facility in China to verify the information disclosed in its response to the exporter questionnaire. A more detailed assessment of the verification process is contained in the verification report published on the public record.³³

³¹ Investigation 416 into steel rod in coil allegedly dumped from the Republic of Indonesia, the Republic of Korea and the Socialist Republic of Vietnam.

³² Investigation 418 into the alleged dumping of steel reinforcing bar from Greece, the Republic of Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and the Kingdom of Thailand.

³³ Refer to document 31 on the electronic public record for Investigation 384.

6.7.2 Export price

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

Therefore, the export price for Suzhou was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

6.7.3 Normal value

As detailed in section 6.5 above, the Commission has formed a view that there is a particular market situation in China and the Chinese domestic alloy round bar prices are not suitable to be used for establishing normal values under subsection 269TAC(1).

As such, the Commission has utilised subsection 269TAC(2)(c) to construct normal values. The Commission has constructed Suzhou's normal values as follows:

Component	Commission Approach
Raw materials	Platts monthly Latin American FOB steel billet prices uplifted by the average cost for the investigation period for each alloy necessary to bring the billet to the chemical specification required for each grade of alloy round bar exported to Australia.
Conversion costs	Suzhou's actual verified costs to convert billet to alloy round bar.
SG&A expenses	Suzhou's actual verified SG&A costs.
Profit	Suzhou's profit on domestic sales which met the original ordinary course of trade (OCOT) test based on Suzhou's verified CTMS.

Table 3: Suzhou's normal value construction

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

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9)³⁴ as follows:

Adjustment Type	Deduction/addition
Export handling and other charges	Add export handling and other expenses.
Export credit term expenses	Add export credit term expenses.
Value Added Tax (VAT)	Add an amount for non-refundable VAT.

Table 4: Adjustments to Suzhou's normal value for alloy round bar

³⁴ For all exporters, where normal value was calculated under subsection 269TAC(2)(c), to ensure the comparability of normal values to export prices, the Commissioner considers that adjustments are required pursuant to subsection 269TAC(9).

6.7.4 Preliminary dumping margin

The Commission has calculated the preliminary dumping margin for Suzhou as 35.3 per cent.

6.8 Dumping assessment – Jiangsu Yonggang

6.8.1 Verification

Yonggang provided a completed response to the Commission's exporter questionnaire. As there was no on-site verification done for Yonggang, the Commission has tested the data for relevance and reliability by performing a desktop verification. Details regarding this process are contained in the verification report published on the public record.³⁵

6.8.2 Export price

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

Therefore, the export price for Yonggang was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

6.8.3 Normal value

As detailed in section 6.5 above, the Commission has formed a view that there is a particular market situation in China and the Chinese domestic alloy round bar prices are not suitable to be used for establishing normal values under subsection 269TAC(1).

As such, the Commission has utilised subsection 269TAC(2)(c) to construct normal values. The Commission has constructed Yonggang's normal values as follows:

Component	Commission Approach
Raw materials	Platts monthly Latin American FOB steel billet prices uplifted by the average cost for the investigation period for each alloy necessary to bring the billet to the chemical specification required for each grade of alloy round bar exported to Australia.
Conversion costs	Yonggang's actual verified costs to convert billet to alloy round bar.
SG&A expenses	Yonggang's actual verified SG&A costs.
Profit	Yonggang's profit on domestic sales which met the original OCOT test based on Yonggang's verified CTMS.

Table 5: Yonggang's normal value construction

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

³⁵ Refer to document 36 on the electronic public record for Investigation 384.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC (9)³⁶ as follows:

Adjustment Type	Deduction/addition
Domestic inland transport and handling charges	Subtract export inland transport and handling charges.
Export inland transport and handling charges	Add export inland transport and handling charges
Value Added Tax	Add an amount for non-refundable VAT

Table 6: Adjustments to Yonggang's normal value for alloy round bar

6.8.4 Dumping margin

The Commission has calculated the dumping margin for Yonggang as -10.8 per cent. Subsection 269TDA(1) of the Act provides for the termination of an investigation in so far as it relates to an exporter, where that exporter has not been dumping or there has been negligible dumping. In accordance with that provision the Commissioner has terminated the investigation in so far as it relates to Yonggang. ADN 2017/152 was published on the public record on 27 October 2017.

6.9 Dumping assessment – Daye Special Steel

6.9.1 Verification

Daye provided a completed response to the Commission's exporter questionnaire, although ultimately the Commission requested further information regarding certain cost data. As there was no on-site verification done for Daye, the Commission has tested the data for relevance and reliability by performing a desktop verification. The Commission notes that Daye has a significant number of domestic models, and additional time was granted in order to collate and provide the data in relation to these domestic models, the verification of which is still on foot. Noting this, for the purposes of this SEF the Commission has relied on the best available information at the current time to calculate a preliminary dumping margin for Daye.

6.9.2 Export price

The Commissioner is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter. Therefore, the export price for Daye was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

³⁶ For all exporters, where normal value was calculated under subsection 269TAC(2)(c), to ensure the comparability of normal values to export prices, the Commissioner considers that adjustments are required pursuant to subsection 269TAC(9).

6.9.3 Normal value

As detailed in section 6.5 above, the Commission has formed a view that there is a particular market situation in China and the Chinese domestic alloy round bar prices are not suitable to be used for establishing normal values under subsection 269TAC(1). In addition to this, at the present time the Commission has not completed its verification of the CTMS data provided by Daye, and thus is unable to determine which sales were in the OCOT.

As such, the Commission has utilised subsection 269TAC(2)(c) to construct normal values. The Commission has constructed Daye's normal values as follows:

Component	Commission Approach
Raw materials	Platts monthly Latin American FOB steel billet prices uplifted by the average cost for the investigation period for each alloy necessary to bring the billet to the chemical specification required for each grade of alloy round bar exported to Australia.
Conversion costs	A weighted average of actual costs to convert billet to alloy round bar from the other verified exporters.
SG&A expenses	A weighted average of the actual SG&A costs of the other verified exporters.
Profit	A weighted averaged of the actual profit on domestic sales which met the original OCOT testing based on the other exporters' verified data.

Table 7: Daye's normal value construction

A full reconstruction of this method is attached under **Confidential Attachment 4**.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9)³⁷ as follows:

Adjustment Type	Deduction/addition
Export inland transport and handling charges	Add export inland transport and handling charges
Value Added Tax	Add an amount for non-refundable VAT

Table 8: Adjustments to Daye's normal value for alloy round bar

6.9.4 Preliminary dumping margin

The Commission has calculated the preliminary dumping margin for Daye as 11.3 per cent.

³⁷ For all exporters, where normal value was calculated under subsection 269TAC(2)(c), to ensure the comparability of normal values to export prices, the Commissioner considers that adjustments are required pursuant to subsection 269TAC(9).

6.10 Uncooperative and all other exporter dumping margins

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3) and normal values are to be calculated under subsection 269TAC(6).

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

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

This dumping margin for uncooperative and all other exporters from China is 58.6 per cent.

6.11 The Commissioner's assessment

The Commissioner has found that:

- alloy round bar exported to Australia by Suzhou and Daye during the investigation period was dumped;
- Yonggang was not found to be dumping; and
- the volumes of dumped goods from China were not negligible.

As noted in section 6.8.4 above, the Commission has terminated the investigation in so far as it relates to Yonggang, under subsection 269TDA(1).

6.12 Volume of dumped imports

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

Using the ABF import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of dumped goods from China was greater than three per cent of the total import volume and is therefore not negligible. Accordingly, the Commissioner does not propose to terminate this investigation in respect of China under subsection 269TDA(3).

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 The Commissioner's assessment

The Commissioner has assessed that the Australian industry, in relation to its production and sale of like goods, has experienced injury in the form of:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced capital investment;
- reduced asset utilisation;
- reduced return on investment; and
- reduced capacity and capacity utilisation.

7.2 Introduction

This chapter looks at injury effects as the initial step to the main assessment of whether the Australian industry has experienced material injury caused by dumping. The matters that may be considered in determining whether the industry has experienced material injury are set out in section 269TAE.

In the application, the applicant claimed that the Australian industry has experienced material injury caused by alloy round bar being exported to Australia from China at dumped prices. The applicant claimed that the injurious effects of dumping have been:

- lost sales volume;
- reduced market share;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced capital investment;
- reduced asset utilisation;
- reduced return on investment;
- reduced capacity;
- reduced revenue; and
- reduced wages employment.

Following initiation of the investigation and in accordance with the Commission's position regarding the scope of the goods description as set out in the File Note published on 7 June 2017,³⁸ the Commission requested sales and cost data from other members of the

³⁸ Refer to document 32 on the electronic public record for Investigation 384.

Australian industry producing like goods. Milltech subsequently provided information (together with supporting appendices) claiming that it had experienced injury as follows:

- price depression;
- price suppression;
- reduced profits;
- reduced sales volume; and
- loss of manufacturing capacity.

7.3 Approach to injury analysis

The Commission notes section 5.2 above, where the Commission outlined the structure of the Australian industry and distinct market segments.

The Commission's assessment of whether the dumped goods have caused injury includes an examination of the effects of the dumped goods *in a market*. This includes an assessment of factors which are referable to a market and not an industry, such as price and profitability.³⁹ Therefore in studying these effects, it is necessary to look at the markets that comprise the Australian industry.

The Commission requested Moly-Cop provide information and evidence regarding injury it had experienced as a result of the imports of alloy round bar from China. To date, this information and evidence has not been received. The Commission notes Moly-Cop's submission of 4 September 2017⁴⁰ in which it refers to its impending purchase of Donhad (the mining consumables business of Valmont Industries) and the Australian Competition and Consumer Commission (ACCC) investigation related to this purchase. The Commission notes Moly-Cop's request for an extension to allow for clarity regarding the ACCC process, and will consider Moly-Cop's views if a submission is made in response to this SEF.

Accordingly, the Commission has confined its injury assessment to OneSteel and Milltech. Where necessary, and for the purposes of this chapter, the Commission has consolidated the data from both entities. The Commission will consider causation and the materiality of injury to the Australian industry as a whole in the following chapter.

CON 384 advised that the investigation period for this investigation is 1 October 2015 to 30 September 2016 and that the Commission would examine the Australian market and the economic condition of the Australian industry from 1 July 2012 for the purposes of injury analysis. The following analysis relies on publically available information, data from the ABF import database and verified sales and cost data provided by the Australian industry, importers and exporters. The supporting data with regard to the below analysis is contained in **Confidential Attachment 5 – Injury**.

³⁹ See discussion in *Re Swan Portland Cement Limited and Cockburn Cement Limited v the Minister of Small Business and Customs and the Anti-Dumping Authority* [1991] FCA 49 at [44].

⁴⁰ Refer to document 42 on the electronic public record for Investigation 384

7.4 Commencement of injury

In its application, OneSteel claimed that material injury from dumped imports commenced in January 2013 following the decision of a customer to purchase allegedly dumped goods exported from China. The Commission is unable to draw any conclusions on allegations of dumping prior to the investigation period and will examine trends in the Australian industry from 1 July 2012.

7.5 Volume effects

7.5.1 Sales & Production Volume

Figure 4 indicates the trend of OneSteel's domestic sales over the injury analysis period.

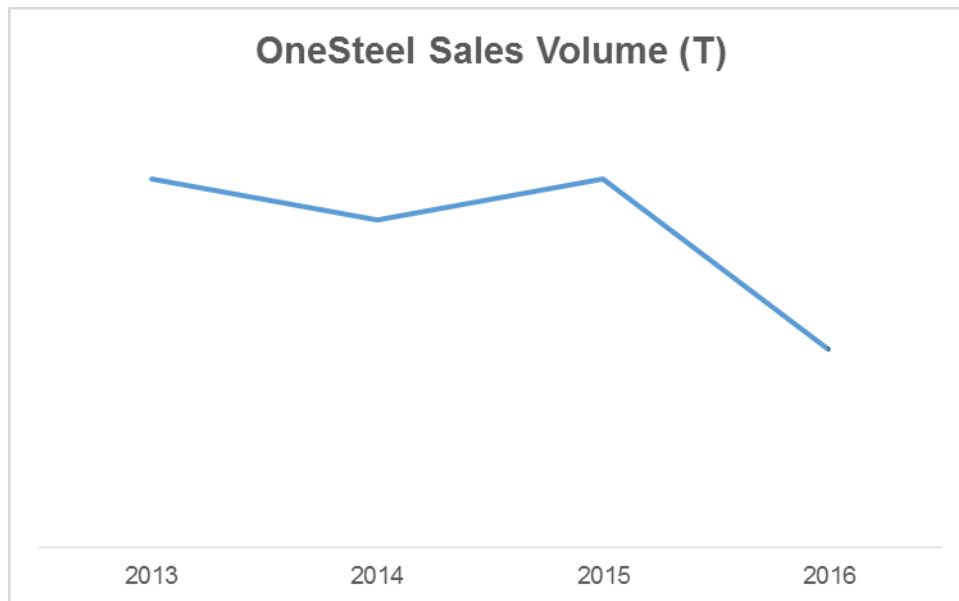


Figure 4: OneSteel domestic sales volume of alloy round bar

Based on Figure 4, the Commission observes that while the sales volume remained relatively consistent over the first three years of the injury analysis period, there was a sharp decline during the investigation period. The decline in volume coincides with an increase in imports of the goods from China.

Figure 5 indicates the trend of Milltech's domestic sales over the injury analysis period.

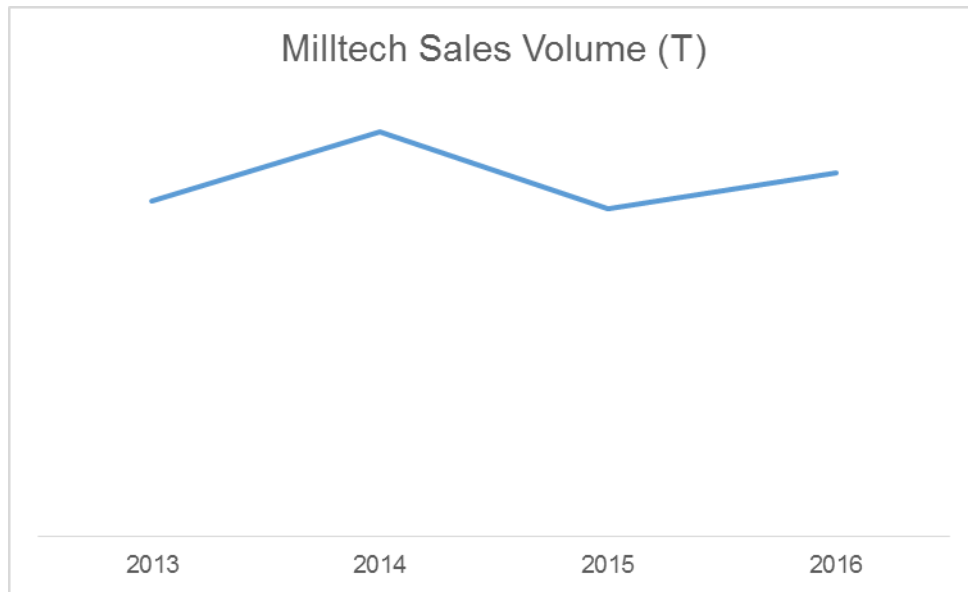


Figure 5: Milltech domestic sales volume of alloy round bar

Based on Figure 5, the Commission observes that although there have been fluctuations (both up and down) in the domestic sales volume, it has remained relatively consistent over the injury analysis period with a slight increase during the investigation period. The Commission notes that a certain percentage of goods manufactured by Milltech are with feed material provided by OneSteel. With regard to these goods, the Commission has ensured no double-counting has occurred.

7.5.2 Market Size & Share

The Commission considered the market size and respective market shares of the Australian alloy round bar market, based on sales, and this is illustrated in Figure 6 below:

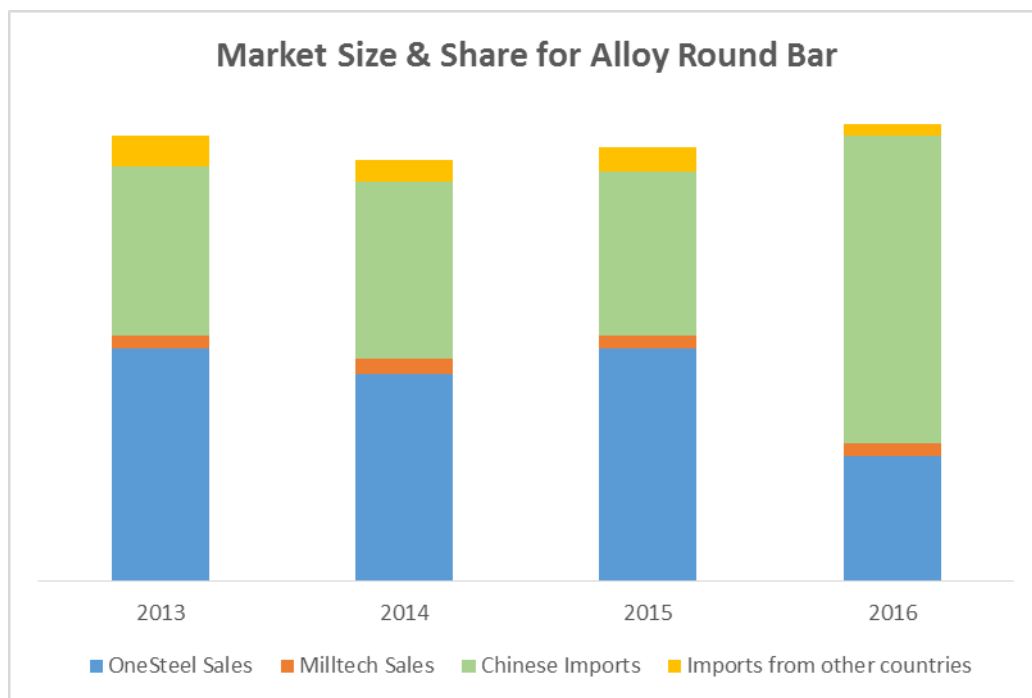


Figure 6: Total Australian market based on sales

Figure 6 is a reflection of the shares of the Australian market based on sales – including members of the Australian industry and Chinese imports. The Commission notes that during the investigation period there was an increase in the volume of Chinese exports sold in Australia, which coincided with a decrease in OneSteel's market share. The market share of Milltech, another Australian industry member, has remained consistent.

7.5.3 Conclusion – volume effects

Based on the above analysis, the Commission considers that OneSteel has experienced injury in terms of lost sales volume and lost market share.

7.6 Price suppression and depression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

Figure 7 below charts the unit price and unit CTMS for alloy round bar sold by OneSteel over the course of the injury analysis period.

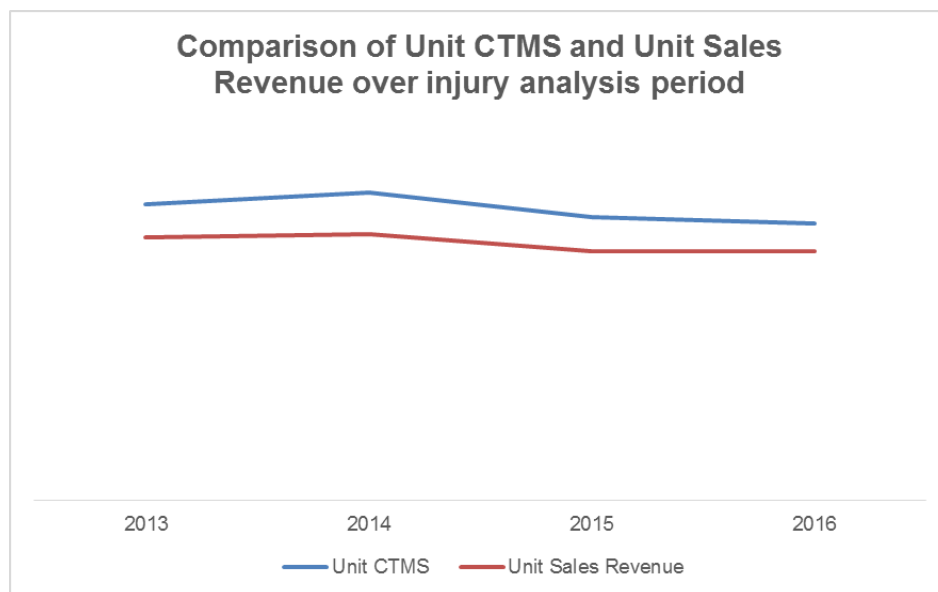


Figure 7: OneSteel unit selling price and unit cost to make and sell for alloy round bar

Figure 7 above shows that OneSteel's unit selling price has remained relatively consistent with a slight downward trend over the injury analysis period. This decline in the unit selling price supports OneSteel's claims of price depression.

Figure 7 shows that OneSteel's unit selling prices did not exceed the unit CTMS for any year in the injury analysis period. The Commission notes that this analysis is based on the aggregated cost and sales data for all segments of alloy round bar produced by OneSteel, which is predominantly made up of the grinding media segment (refer to section 5.2.2 above for a detailed explanation of the different segments).

While acknowledging that the margin between unit CTMS and unit price has reduced during the injury analysis period and OneSteel has improved profitability, the above chart supports the claim that OneSteel faced price pressure which has not allowed unit selling prices to exceed unit CTMS or allowed OneSteel to increase its prices generally. For this reason, the Commission concludes that OneSteel appears to have experienced injury in the form of price suppression.

Figures 8 and 9, below, chart the unit price and unit CTMS for the two types of alloy round bar sold by Milltech over the course of the injury analysis period.

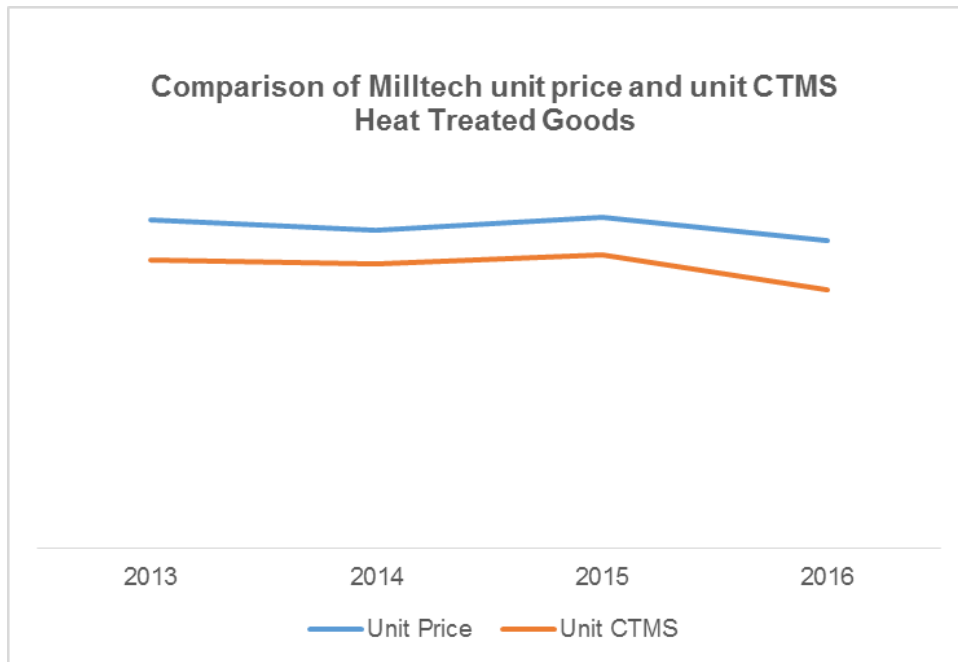


Figure 8: Milltech unit selling price and unit cost to make and sell for heat treated goods

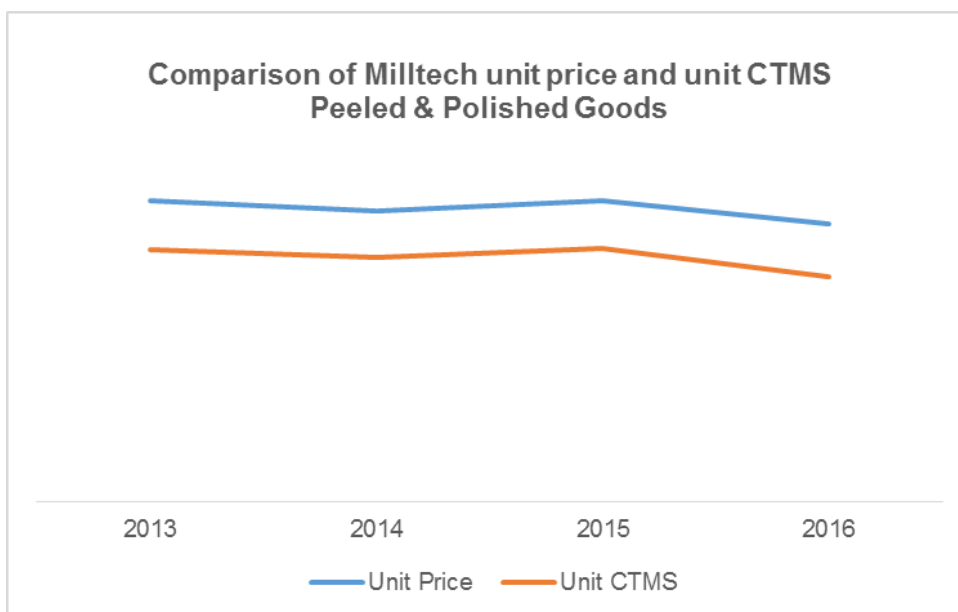


Figure 9: Milltech unit selling price and unit cost to make and sell for peeled & polished goods

Figures 8 and 9 show that Milltech's unit selling price has declined over the investigation period. The decline in unit selling price over the injury analysis period is supportive of Milltech's claims of price suppression and depression. The Commission notes that CTMS has declined to a greater extent in the investigation period compared to unit sales revenue.

7.6.1 Conclusion – price effects

Based on the analysis above, the Commission is satisfied that OneSteel and Milltech have experienced injury in the form of price depression and price suppression.

7.7 Profits and profitability

OneSteel outlined that it has not made a profit on the sale of alloy round bar during the injury analysis period.

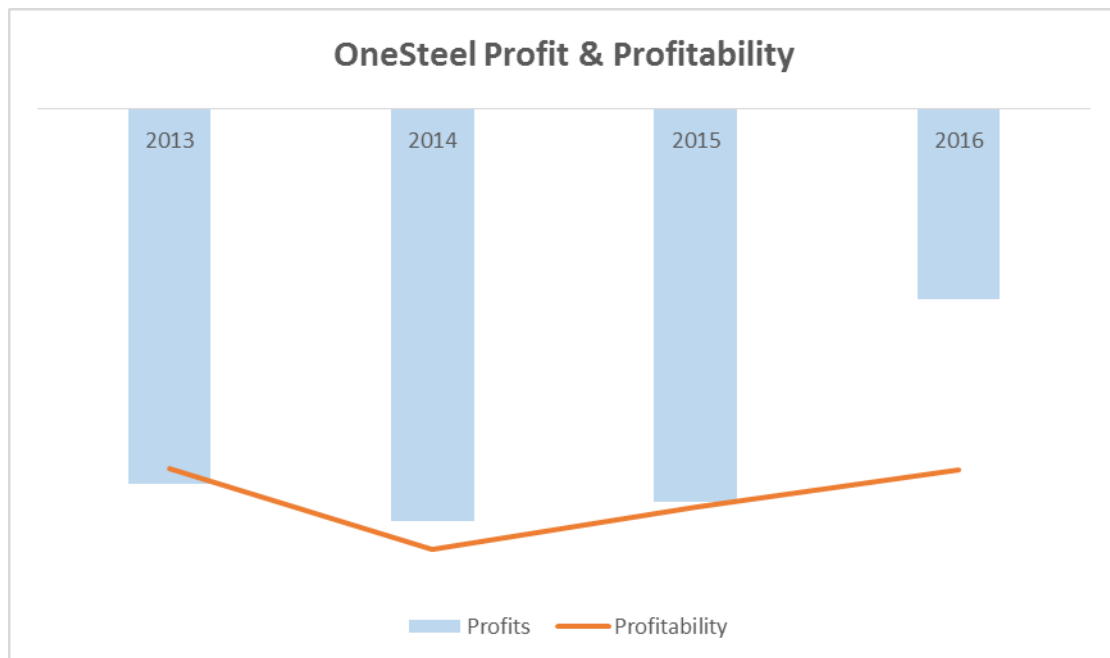


Figure 10: OneSteel profit & profitability over the injury analysis period

Figure 11, below, highlights the level of profit that Milltech has made on the sale of its alloy round bar goods, together with profitability.

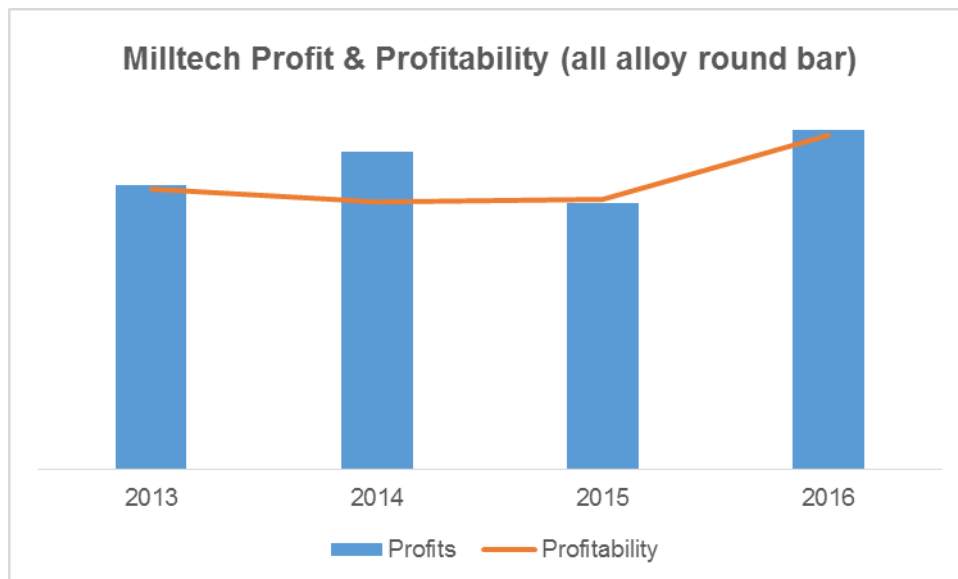


Figure 11: Milltech profit & profitability over the injury analysis period

Subsection 269TAE(3)(e) refers to the level of profits earned in an industry as a relevant economic factor that may be considered in assessing material injury. Figure 10 demonstrates that OneSteel remained unprofitable throughout the injury analysis period, although during the investigation period the level of loss and profitability had improved. The Commission notes that the improved profitability achieved by OneSteel in the investigation period is due in part to its cost reductions.

Figure 11 demonstrates that Milltech was profitable throughout the injury analysis period and that during the investigation period its profits and profitability improved. However, Milltech provided evidence of cost reduction programs it had undertaken as well as the closure of a competitor, both of which would have led to greater profits during the investigation period were it not for other factors – primarily the impact of the dumped alloy round bar. The verification team confirmed that the cost reduction programs had begun to take effect prior to the investigation period, and to support the claims of Milltech the CTMS for the two types of alloy round bar produced by Milltech were compared to the unit profit for each. While the unit profit increased during the investigation period, it did not increase at the same rate at which Milltech was able to reduce its CTMS. This further supports the claim that Milltech has experienced injury in the form of lost profits.

7.7.1 Conclusion - Profits and profitability

The Commission is satisfied that OneSteel and Milltech have experienced injury in the form of loss of profit and reduced profitability due to depressed and suppressed sales prices in the investigation period.

7.8 Other economic factors

7.8.1 OneSteel

OneSteel completed Confidential Appendix A7 for the injury analysis period to support its claims in terms of certain other injury factors. The Commission provides the following observations in relation to other injury factors.

Employment numbers

OneSteel reported a decline in its employment numbers across the injury analysis period, noting that from 2015 to 2016 the level remained consistent. OneSteel acknowledged that the employment numbers were not specific to alloy round bar, however, as OneSteel employees produce different goods. It is therefore difficult for the Commission to determine there has been injury specific to employment numbers for alloy round bar.

Reduced Capital Investment

OneSteel provided data from its Business Planning and Consolidation (BPC) system highlighting a reduction in its capital and investment expenditure over the course of the injury analysis period. The Commission noted that following allocation of this total expenditure amount to the production of like goods, there had been a considerable decline in capital investment, particularly over the investigation period.

Reduced Asset Utilisation

OneSteel provided data highlighting its property, plant and equipment asset total from its BPC system. When allocated to the production of like goods the Commission noted a decline in asset utilisation over the injury analysis period, with a sharper drop during the investigation period.

Return on investment

OneSteel provided two calculation methods to demonstrate its claim of reduced return on investment. One method took into account cost movements (taking into account cost reductions including variable costs per tonne, fixed costs and selling and administration costs) while the other method did not. The Commission considers the calculation method including cost movements to be a more accurate assessment. For both methods, OneSteel divided its net gain or loss by the “like goods” asset (which had been calculated by taking the total Rod & Bar asset amount and allocated it to like goods based on production volume). The Commission identified that over the injury analysis period the return on investment had reduced overall, with an improvement in 2015 before regressing during the investigation period.

Reduced Capacity & Capacity Utilisation

OneSteel presented three scenarios to demonstrate the reduced capacity in production of alloy round bar over the injury analysis period. The first scenario is where the capacity of like goods is equal to the capacity of the Sydney and Laverton rolling mills. The second scenario is where the capacity of like goods is equal to the period where the highest tonnes of alloy round bar were produced – the 2012 calendar year. The third scenario is where the capacity of like goods is equal to the billet capacity of Whyalla. The Commission noted that in utilising each method, the production total of alloy round bar was significantly lower than the capacity, particularly during the investigation period.

7.8.2 Milltech

As noted in the verification report for Milltech, Milltech completed Confidential Appendix A7 in relation to certain other economic factors, but did not claim injury for these factors other than a loss of manufacturing capacity (claimed on behalf of a domestic competitor that had ceased production in 2015). The verification team noted that this factor was not

able to be considered for further verification as the closed domestic competitor is not part of the investigation.

7.8.3 Conclusion

The Commission has considered the other injury factors outlined above and there appear to be reasonable grounds to support the claim that OneSteel has experienced injury with respect to:

- reduced capital investment;
- reduced asset utilisation;
- reduced return on investment; and
- reduced capacity and capacity utilisation.

7.9 Preliminary finding

Based on the analysis of the information contained in the application and obtained and verified during the industry verification visit, the Commissioner considers that OneSteel has experienced injury in the form of:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability; and
- the other injury factors noted in section 7.8.3.

The Commissioner further considers that Milltech has experienced injury in the form of:

- price depression;
- price suppression;
- loss of profits; and
- reduced profitability.

The Commissioner will consider whether the injury effects it has observed have been caused by the dumped goods and whether the injury caused by dumping to the Australian industry as a whole is material.

8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 The Commissioner's assessment

As discussed in section 7.9 above, the Commissioner considers that OneSteel and Milltech have experienced injury.

The Commissioner considers that during the investigation period, while certain exports of alloy round bar from China were dumped and there has been some injury to parts of the Australian industry, on balance, the injury caused by dumping to the Australian industry as a whole is negligible.

8.2 Legislative framework

In any report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG. Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods.

Subsection 269TAE(1) outlines the factors that the Parliamentary Secretary may take into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened. The Commissioner has also had regard to the *Ministerial Direction on Material Injury 2012*.⁴¹

8.3 Approach to causation analysis

This chapter will first analyse whether injury experienced by OneSteel and Milltech was caused by the dumped goods and then whether the dumped goods have caused material injury to the Australian industry as a whole.

As discussed in section 4.4.2 above, the Commission considers that OneSteel and Milltech, together with Moly-Cop, constitute the Australian industry producing like goods. A determination of material injury in the context of a section 269TG notice must be based on an assessment of injury to the Australian industry as a whole. Figure 1 (above) illustrates the size of the Australian industry, noting that Moly-Cop represents the largest part of the industry.

In *Re Swan Portland Cement Limited and Cockburn Cement Limited v the Minister of Small Business and Customs and the Anti-Dumping Authority [1991] FCA 49*, Lockhart J noted that the term 'Australian industry' refers to the industry as a whole. He stated that 'the expression "Australian industry" in the context of the anti-dumping legislation refers to an industry viewed throughout Australia as a whole and does not refer to a part of that

⁴¹ *Ministerial Direction on Material Injury 2012* (27 April 2012), available at www.adcomission.gov.au.

industry, whether the part be determined by geographic, market or other criteria.⁴² This is the normal practice of the Commission when undertaking an assessment of injury and causation, as described in the Manual.⁴³

The Commission has verified the volume of like goods produced by Moly-Cop. The Commission considers that Moly-Cop is the largest producer of like goods in Australia, as referred to in section 4.5 above.

8.4 Size of the dumping margin

Subsection 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The dumping margins set out in chapter 6 above are 35.3 per cent for Suzhou, 11.3 per cent for Daye and 58.6 per cent for uncooperative and all other exporters. The Commission considers the magnitude of the dumping has provided the importers of the dumped goods with the ability to offer the goods to customers in Australia at prices significantly lower than would otherwise have been the case.

8.5 Price effects

In its application OneSteel made the following claims regarding price effects:

- it has experienced price undercutting on an aggregated basis and at a customer level; and
- it has experienced price depression and price suppression as outlined above in section 7.6.

The Commission has considered these claims below.

8.5.1 Price undercutting

OneSteel

Aggregate Level

Price undercutting occurs when an imported product is sold at a price below that of the Australian industry. The Commission verified sales data over the investigation period for OneSteel as well as for the major importer. The Commission calculated a delivered price for OneSteel for the investigation period. The Commission also calculated the comparable sales price for the major importer based on verified data.

The Commission notes, as outlined above in section 5.2, that an aggregated analysis of all segments of the alloy round bar is not appropriate for certain injury factors. Due to the

⁴² [1991] FCA 49 at [39].

⁴³ The Manual, page 16 refers.

cost differences associated with different segments of the alloy round bar market, an aggregation of these does not provide a conclusive illustration of potential undercutting. The Commission identified that alloy round bar imported for the grinding media segment of the market accounts for over 96 per cent of the total volume of alloy round bar imported. Accordingly, for the purposes of considering price undercutting, the Commission has considered the selling prices of alloy round bar into the grinding media market below.

The Commission compared the selling prices for the grinding media market and the result is illustrated in Figure 12 below, with detailed analysis contained in **Confidential Attachment 6 – Price Undercutting**:

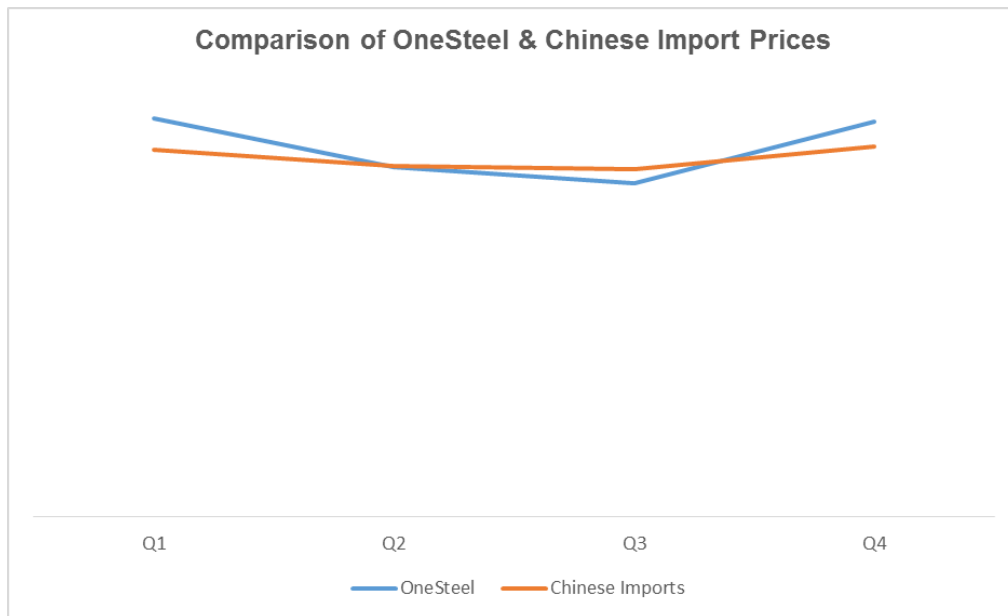


Figure 12: Comparison of OneSteel and Chinese Import Prices

Based on the analysis of the verified data and the weighted average prices calculated, the applicant was undercut in the first and last quarters of the investigation period. In the middle two quarters of the investigation period, the prices for the Chinese imports were above the prices of the applicant.

As outlined in sections 8.7.6 to 8.7.8, the Commission considers there are other causation factors which have contributed to the volume injury experienced by OneSteel. These factors relate to specific models in the grinding media market. The Commission considered price undercutting as it relates to other models produced by OneSteel in the grinding media market, which are not impacted by these other causation factors. This analysis is contained in **Confidential Attachment 6 – Price Undercutting**.

Customer Level

OneSteel provided a number of specific examples where during a process of negotiation, its selling prices had been undercut. The Commission has considered these below:

- a. OneSteel provided evidence of a discussion with one of its customers in respect of selling prices of alloy round bar. The evidence indicated that the alloy round bar

imported from China was undercutting the OneSteel price, although in this discussion no precise volumes were discussed.

- b. OneSteel provided evidence of negotiations where it offered a price for sales of a certain model to its customer, based on the volumes that the customer had requested. The customer refused to purchase at this price and requested a lower price. The Commission calculated that this lower price requested by the customer was 2.7 per cent lower than the price offered by OneSteel.
- c. OneSteel provided evidence of negotiations where it had offered a price for sales into two separate sites. The customer requested a reduction in the price, which the Commission calculated as being a 1 per cent reduction.
- d. OneSteel provided evidence of negotiations where the customer had stated the price offered by OneSteel was too high. The customer requested that prices be lowered by approximately 5 per cent.
- e. OneSteel provided evidence of negotiations where the customer had quoted the import price and requested a reduction in OneSteel's prices. OneSteel could not lower its prices to the price requested by the customer. The difference in the amount requested by the customer and the price that OneSteel offered was approximately 5.7 per cent.

Evidence in relation to these examples is contained in **Confidential Attachment 7 – Price Undercutting examples**.

Milltech

Milltech provided two examples where its selling prices had been undercut. These are summarised below:

- a. Milltech referred to a specific example where a Chinese supplier had undercut its quoted prices of heat-treated bars by 13 per cent and by 17 per cent for the peeled bars. Milltech stated that this example resulted in the loss of a certain (confidential) volume of its sales.
- b. Milltech referred to an example where it was forced to reduce its sales price by a certain amount per tonne in a tender process for a new order. Ultimately, despite the reduced price offered, this example resulted in the loss of a certain (confidential) volume of its sales.

The Commission notes that further evidence and information regarding these two examples was not provided.

8.5.2 Price depression and suppression

OneSteel provided a number of specific examples to illustrate how it had experienced injury in the form of price depression and suppression. Noting that some of these examples have been considered above under section 8.5.1 above (in relation to price undercutting), the other examples have been considered below:

- a. OneSteel provided evidence of a discussion with one of its customers where a price had been offered. Without refusing the offer, the customer had requested a fixed price for a certain period using a certain volume.
- b. OneSteel provided evidence of a customer noting the gap between the price of the imported product and the price from OneSteel. They requested a meeting to discuss this differential.
- c. OneSteel provided evidence of a price being offered to a customer for deliveries to certain sites. The customer refused this price and stated that they will seek other arrangements.

Evidence in relation to these examples is contained in **Confidential Attachment 8 – Price depression and suppression**.

8.5.3 The Commission's assessment – price effects

OneSteel has presented evidence of several occasions during the investigation period (and just prior) when it was forced to consider lowering prices due to the prices of imported alloy round bar from China. The undercutting in these examples range from 1 per cent up to approximately 6 per cent, noting that this is on the price quoted by OneSteel and not using the prices from the price model they generally sought to utilise. When considering the price model, the levels of undercutting would be greater. The Commission does note that in the evidence provided by OneSteel, there were certain examples where the customer had referred to the volumes that were being provided, and that this had an impact on the price fluctuations. This is considered further by the Commission in section 8.7.7 below.

On an aggregate level, during the investigation period the analysis shows that although for certain periods the price of the imported alloy round bar from China had undercut OneSteel's prices, for two quarters during the investigation period the prices had not been undercut. On a weighted average over the course of the investigation period, the imported alloy round bar had undercut OneSteel by approximately 7 per cent. Further, the evidence provided by OneSteel indicates that on numerous occasions during the investigation period it had sought to increase certain prices, which had been refused by its customers due to the imported alloy round bar being offered at a cheaper price. On the information available, the Commission accepts that dumped imports had caused injury to OneSteel in the form of price depression and price suppression, noting that the Commission considers there are other causation factors also present (discussed from section 8.7.6 onwards).

The Commission considered the claims made by Milltech in relation to price undercutting. Noting that further evidence and information supporting the two examples was not provided, the Commission determined that the lost sales volume from these two examples represented just over 10 per cent of the total production volume of Milltech during the investigation period. In the absence of further information the Commission does not consider the claims regarding price undercutting to have been established.

8.6 Volume effects

As discussed in section 7.5 above, OneSteel experienced a decline in sales volume over the injury analysis period, with the reduction specifically felt during the investigation period. The Commission did not find that Milltech had experienced injury in the form of lost sales volume.

Subsection 269TG(1) states that in order to publish a dumping duty notice, the Parliamentary Secretary must be satisfied that because of dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods. As noted in section 4.4.2 above, the Commission considers the alloy round bar produced by Moly-Cop to be part of the Australian industry.

Figure 6, above, indicates the overall trend in the sales of alloy round bar for the entire Australian industry. The Commission's analysis identified that during the investigation period:

- the dumped imports of alloy round bar represented 49 per cent of the total Australian market for alloy round bar; and
- the volume of imports from China increased from the 12 months prior to the investigation period by 86 per cent.

The Commission considers the loss of sales volume (and market share) experienced by OneSteel to be material. The cause of this loss of sales volume is considered further in sections 8.6.1 and 8.7 below.

8.6.1 Lost Sales

In its application, OneSteel noted a number of occasions where it had lost sales during the investigation period. The Commission has considered these below, noting that each of these examples were considered confidential.

- a. OneSteel explained that a customer had requested a fixed price for the 2016 year for a certain volume. In response, OneSteel had requested a higher minimum volume and stated that a fixed price for the entire year would be difficult, but that quarterly prices could be determined. The outcome from this negotiation was the loss of the sales volume. The Commission was provided with email correspondence highlighting the negotiation process, noting that no price offer for the 2016 year (either an annual price or quarterly price) was provided by OneSteel.
- b. OneSteel explained the negotiation process with a customer where the terms on price could not be agreed. The outcome from this negotiation was the loss of sales volume. The Commission was provided with notes relating to these conversations, and minimum volumes were not discussed or outlined.
- c. OneSteel requested a commitment on certain volumes to be sold to a customer. Having received a response regarding this from the customer, OneSteel then offered prices for those volumes. The customer advised that due to pricing and "unresolved issues" they could not move forward with the offer. OneSteel stated

that it could only match the import pricing if there was a commitment to a higher volume (i.e. at the lower volume the pricing proposed was too tight).

- d. OneSteel referred to two processes of negotiation. The first outlined that the import price was moving quickly, faster than OneSteel could keep up. In this process, the customer referred to certain quality issues. In the second process, OneSteel had prepared a pricing model and draft supply agreement for consideration by its customer. The terms of this offer were not accepted by the customer. The Commission notes that one of the terms of the supply agreement was a commitment to purchase a certain volume of alloy round bar from OneSteel each quarter.

Evidence in relation to these examples is contained in **Confidential Attachment 9 – lost sales**.

The Commission has considered the examples of lost sales provided by OneSteel. Two of the examples provided by OneSteel are for the supply of a considerable volume of alloy round bar. The Commission has received evidence from customers with regards to the volume commitments proposed by OneSteel, which is discussed at section 8.7.7 below. The Commission does not consider the refusal to accept these supply agreements to be indicative of price undercutting. Of the remaining examples, the Commission confirmed that there had been multiple examples during the investigation period of the customer referring to the pricing of imports and refusing to accept OneSteel's pricing. In the first example, no evidence of the precise volume was provided and the Commission was not able to determine what portion of OneSteel's production or sales this specific sale would represent. Of the other example that OneSteel referred to, while acknowledging that price was a factor in the customer refusing to proceed with OneSteel, the customer also referred to "unresolved issues" which the Commission has considered in more detail below in section 8.7.6.

8.7 Injury caused by factors other than dumping

Subsection 269TAE(2A) requires consideration of whether injury to an industry is being caused or threatened by a factor other than the dumped goods. In its application, OneSteel raised as possibilities and then discounted the following factors as having caused injury to the Australian industry:

- effect of imports from countries other than China;
- declining demand from downstream domestic customers affected by dumped and subsidised finished products produced from alloy round bar;
- outstanding warranty claims against the applicant; and
- Australian industry's pricing model.

These factors have been considered by the Commission below. The Commission has also considered the following factors in the course of the investigation:

- undumped alloy round bar from China;
- quality issues with OneSteel's product; and
- the value proposition put forward by OneSteel.

8.7.1 Effect of imports from countries other than China

In its application, OneSteel noted that a considerable percentage of the imported alloy round bar came from China during the investigation period. OneSteel outlined its understanding that the FOB export prices from other countries (besides China) was above the FOB price of the goods from China, and noted that the volumes of alloy round bar imported from countries other than China had declined. OneSteel further explained that it had not received evidence of lower price offerings from other countries (besides China) during the course of the investigation period. As a result, OneSteel concluded that goods exported from countries other than China have not materially contributed to the Australian industry's injury.

The Commission analysed import data from the ABF and confirmed that during the injury analysis period, the volume of imports of the goods from countries other than China had declined. During the investigation period, imports of alloy round bar from countries other than China represented just 2.5 per cent per cent of the total Australian market for alloy round bar. Given the presence of the dumped goods from China and the price of those goods, the Commission concludes that the volume of imports from countries other than China is insufficient to have caused injury to the Australian industry.

8.7.2 Declining demand from downstream domestic customers affected by dumped and subsidised finished products produced from alloy round bar

In its application OneSteel referred to its customer for alloy round bar used in the production of grinding balls, Donhad, and noted that they were an applicant in Investigation 316 concerning grinding balls exported from China. OneSteel noted the Commission's finding in that investigation that there had not been injury in the form of reduced sales volume, and stated this was indicative of there being no decline in demand for alloy round bar used specifically for the grinding media market.

During the course of the present investigation the Commission met with both Donhad and Moly-Cop, both of whom compete in the industry for grinding media (both balls and rods), a downstream product of alloy round bar. The Commission gathered data relating to the sales volume of these manufacturers of grinding media, and noted that neither entity referred to a declining demand in the downstream domestic market as a potential cause of injury. As noted above, the Commission has requested that Moly-Cop, as a part of the Australian industry producing like goods, provide information and evidence regarding potential injury in the downstream markets. To date, this information has not been provided.

8.7.3 Confidential Matter relating to goods outside scope of application

In its application OneSteel raised an issue relating to goods outside the scope of the application. This issue was not raised by interested parties during the investigation and the Commission did not consider this as an 'other injury factor'.

8.7.4 OneSteel's pricing model

In its application OneSteel noted that other interested parties may claim the way in which it constructs its pricing model led to the injury it has experienced. Having undertaken visits with other interested parties during the investigation, the pricing model that OneSteel has utilised was not claimed to have caused injury. Rather, interested parties raised a point regarding the value proposition put forward by OneSteel in its sales offers. This is discussed in section 8.7.7 below. The Commission considered the pricing model utilised by OneSteel, and its methodology associated with this, and does not consider this to have contributed to injury it has experienced.

8.7.5 Undumped goods from China

During the course of the investigation the Commission found that Yonggang had not dumped the goods into Australia during the investigation period. The Commission then considered whether these undumped goods had been a factor in causing injury to members of the Australian industry. Verification of Yonggang and analysis of data provided by the ABF identified that Yonggang's total export volume of alloy round bar to Australia represented less than 2 per cent of the total volume of alloy round bar exported from China to Australia. The Commission does not consider the volume of undumped goods sufficient to have caused injury to the Australian industry.

8.7.6 Quality Issues

In a submission dated 6 February 2017, Donhad raised the point that there were a number of product specific issues unrelated to imports which would explain and demonstrate that factors other than the subject imports have contributed to the injury being claimed by OneSteel. During the course of the investigation the Commission met with representatives of Donhad to discuss these claims.

Donhad provided a presentation to the Commission, attached at **Confidential Attachment 10 – Donhad Presentation**, outlining both a technical and historical view of the alloy round bar it had purchased product from OneSteel.

In summary, the points that Donhad raised were as follows:

- i. Donhad noted that the manufacturing of grinding balls requires special bar quality steel with tight control of steel cleanliness and segregation of the bar. One of the steps in the production of steel billet is vacuum degassing. The Commission understands that this process removes dissolved gases, including hydrogen and nitrogen from the liquid steel. The presence of these gases in the steel can lead to imperfections and impact on the integrity of the steel.

Donhad noted that OneSteel does not have the capability to perform vacuum degassing during its billet production, while its Chinese suppliers are able to perform this step.

- ii. The reduction ratio for certain grades of OneSteel's billet product is not large enough to suit Donhad's requirements. The Commission understands that the reduction ratio is the rate of reduction in the surface area of the steel billet when

it is rolled to a specific alloy round bar size. This ratio is calculated by taking the billet cross section area divided by the rolled bar cross section area.

The Commission understands that during the hot rolling process, the grains within the steel billet will undergo a process of elongation and recrystallisation. The higher the reduction ratio, the finer the grain size in the final alloy round bar product, leading to greater strength in the bar.

Donhad explained that the reduction ratio for the Chinese product it has imported is considerably higher than the product OneSteel can offer for certain grades of its product, leading to greater confidence in the imported Chinese bar. Donhad provided the Commission with details regarding the reduction ratio for each of the suppliers, and this is contained in **Confidential Attachment 11 – rolling details**.

- iii. The alloy round bar provided by OneSteel does not have in-line ultrasonic testing performed. The Commission understands that this test is an additional measure performed to check the internal integrity of the bar. Donhad noted that all of the product it imported from China has had this testing performed, and provided a specification sheet for the imported product to confirm this.
- iv. Donhad explained that there had been a number of incidents over several years in relation to a specific diameter product provided by OneSteel. It outlined these incidents as follows:
 - a. The breakage/explosion of a grinding ball at one of its customer's operations. Donhad noted that this particular grade of grinding ball is considered a very robust product which has not had any previous failures. OneSteel performed an investigation into the failure of the product and the report referred to [confidential details regarding quality issues].
 - b. During the grinding ball production process, Donhad identified "pinging" during the induction heating process, which is indicative of stress in the steel product. Donhad stated that when these bars are rolled they produce deformed balls with holes throughout, an issue known as "piping". [Confidential details regarding quality issues].
 - c. The explosion of a grinding ball at a customer's operations. This raised safety concerns as the explosion of a grinding ball may result in shrapnel being thrown in the vicinity of manufacturing equipment and personnel. [Confidential details regarding quality issues].

Copies of the relevant test and investigation reports, together with the confidential details regarding the quality issues noted above, are attached at **Confidential Attachment 12 – reports**.

- v. Following the incidents outlined above and the differences in the production process for the Australian industry and the Chinese product, Donhad performed its own drop tests to compare the impact toughness of the grinding balls. The Commission understands that this test involves dropping grinding balls from an

8m height, and then identifying whether there have been any breakages, fractures or other deformations, which is indicative of quality issues with the product. Donhad provided the Commission with the raw data results, together with a table outlining the final results, both of which can be found at **Confidential Attachment 13 – test results**.

As a result of the incidents explained above and the drop test results, Donhad decided to cease purchasing the alloy round bar in this specific diameter from OneSteel. Donhad claims that the incidents and issues arise as a result of the limitations on the reduction ratio of OneSteel during its production process as well as the lack of controls on the cleanliness of the billet.

- vi. Donhad outlined that early in the 2016 calendar year, together with OneSteel, efforts were made to resolve the issues with the alloy round bar of the diameter in question. A trial charter was agreed between the parties with OneSteel undertaking a number of steps in its billet production process to improve the impact toughness of the final grinding ball product.

Following the trial process, drop tests were undertaken on the grinding balls produced from the OneSteel alloy round bar and the results did not meet the agreed criterion for approval. [Confidential information relating to test reports].

OneSteel response

During the investigation OneSteel raised a number of points with regard to the quality concerns. These points have been outlined below:

- i. OneSteel noted that during the negotiation process over the investigation period, Donhad had not raised the quality concerns with certain diameter alloy round bars. Instead, negotiation for certain orders had been based on price only. OneSteel provided evidence in the form of emails and other file notes confirming the negotiation that had taken place and the basis for this.

The evidence in relation to this negotiation is contained in **Confidential Attachment 7**.

- ii. In a submission dated 23 May 2017,⁴⁴ OneSteel refuted the claims made by Donhad. OneSteel stated that it has been a supplier of grinding bar to Donhad for over 20 years, that Donhad has continued to purchase the goods from OneSteel throughout the injury analysis period and investigation period, and even in the period following the investigation period. OneSteel claims that:

If Donhad's assertions that the "*sole cause of the lost sales and potential profits*" were as a result of a claimed inability to comply with Donhad's technical specifications and testing requirements, then it would logically be expected that Donhad would cease all purchases of the [goods under consideration] from OneSteel. Clearly this is not the case.

⁴⁴ Refer to document 28 on the electronic public record for Investigation 384.

Submission from Donhad dated 5 June 2017

In a submission dated 5 June 2017,⁴⁵ Donhad addressed the claim from OneSteel in point (ii) above, that Donhad had continued to purchase the goods from OneSteel and thus the concerns about quality and meeting certain standards was not important. Donhad stated that there were a number of grades manufactured by OneSteel (through Moly-Cop) that met Donhad's specification and testing requirements and, as such, OneSteel continue to supply these products. Donhad acknowledge that it continued to purchase these grades during and following the investigation period. In raising the technical and specification requirements, Donhad was referring to specific grades and diameter sizes of alloy round bar, which have been referred to in section 8.7.6 above.

Commission's assessment of quality concerns

The Commission has considered the claims made by Donhad and the further submissions from interested parties. While acknowledging that Donhad continued to negotiate on the basis of price, and that the email correspondence from OneSteel confirms this, verified information confirms that Donhad ceased purchasing certain grades (or diameters) of alloy round bar from partway through the investigation period. Donhad provided substantial evidence of the nature of the quality issues it experienced, how these had been addressed with OneSteel (including provision of analysis reports conducted by OneSteel) and comparative tests it had performed on OneSteel's product and the imported product.

The Commission considers it reasonable that, in relation to a certain grade/diameter of alloy round bar, the key reason in ceasing to purchase this product from OneSteel was due to quality and specification concerns rather than price. The Commission considered the loss of sales volume experienced by OneSteel during the investigation period and identified that this particular grade/diameter represented over 60 per cent of its lost sales volume. Donhad stated that it made the decision to cease purchasing this product from OneSteel in late November 2015, and in analysing OneSteel's sales data the Commission confirmed that this diameter of alloy round bar was not sold to Donhad after December 2015. The Commission considers the loss of this 60 per cent of sales volume to be caused by the quality issues rather than the dumped goods.

To further consider the impact of price for this grade/diameter of alloy round bar, the Commission sought purchase orders from Donhad (for the imported product) for the period following the investigation period. Donhad provided the Commission with multiple purchase orders for this diameter of alloy round bar. The Commission compared the unit price in these purchase orders with the price quoted in OneSteel's pricing model for the 2017 period. Including sales into Donhad's operations in either Newcastle or Bassendean, when considering this sample of sales the unit price for the imported product was, on average, 13 per cent higher than the OneSteel price. On multiple occasions the unit price of the imported product was more than 20 per cent greater than the OneSteel price. Further, the Commission compared the weighted average selling price of these purchase orders with the weighted average selling price of the importer during the investigation period.

⁴⁵ Refer to document 30 on the electronic public record for Investigation 384.

The Commission observed that the weighted average selling price for the period following the investigation period was 38 per cent higher than the sales price during the investigation period – again noting that this is specific to this diameter of alloy of round bar that is subject to the quality concerns. This supports the conclusion that price is not the determinative factor in Donhad's decision to source supply from elsewhere, and that the quality issues were a key factor. The price comparison is contained in **Confidential Attachment 14 – Specific diameter**.

8.7.7 Value Proposition

During the investigation Donhad made submissions about OneSteel's value proposition, and that this contributed to the injury it may have experienced. Donhad explained that during the negotiation process, OneSteel requests that Donhad commit to certain volume hurdles. As an example, Donhad provided copies of correspondence between the parties, attached at **Confidential Attachment 15 - value**. The Commission observed that in setting out terms for offer, OneSteel required minimum volume thresholds to be met, with no room for negotiation. While acknowledging that there is some need for OneSteel to have certainty of volumes for its own production purposes, Donhad explained that it is not able to pass on the risk to its customers, who do not commit to volume hurdles and who can generally terminate contracts on 12 weeks' notice. Donhad provided evidence of a standard contract with its customers which detailed such a termination clause, which is attached at **Confidential Attachment 16 - termination**.

Donhad explained that in purchasing the imported product from Stemcor, it does not need to commit to volume hurdles and that this is a key consideration as part of its business strategy. The Commission considers that this will have been a factor in Donhad considering other sources of supply.

8.7.8 Development of New Grade

Donhad explained that over the past three to four years it has invested time in developing a new grade of grinding ball with superior properties. It provided the Commission with detailed information regarding this grade, outlined in **Confidential Attachment 17 – new grade**, and the unique chemical properties and specifications involved. Donhad explained that this new grade is designed to supersede an existing grade of grinding ball, and that in the 2016 calendar year it commenced transitioning its customers to the new grade.

Donhad explained that, as outlined above in the Commission's discussion of the reduction ratio, there is a greater risk of the new grinding ball being of a lower quality where the reduction ratio is low. For this reason, Donhad has only been able to produce this particular grade of grinding ball using alloy round bar that is sourced from China, and from only one exporter in China that has the capacity to roll the round bar required for this grade. Donhad provided correspondence confirming that certain manufacturers of alloy round bar in China had been considered and excluded as potential suppliers – attached at **Confidential Attachment 18 – excluded suppliers**.

Donhad outlined to the Commission that it had engaged with OneSteel to supply a trial quantity for this particular grade. Donhad provided evidence, in the form of email correspondence, illustrating that OneSteel was not able to meet the specifications that Donhad requested, and suggesting amendments to the chemical composition. This email

is attached at **Confidential Attachment 19 - email**. Donhad is not agreeable to these amendments, and this contributes to its decision to source alloy round bar from China.

The Commission analysed the sales information presented by Donhad and identified that the new grade of grinding ball commenced being sold during the investigation period. As this grade is superseding the existing grade for this particular product, the Commission expects to see a reduction in sales by OneSteel of alloy round bar used for the existing grade. The Commission noted above that over 60 per cent of the lost sales volume experienced by OneSteel is in a particular diameter bar which experienced the quality issues explained in section 8.7.6 above. Approximately 30 per cent of the lost sales volume experienced by OneSteel was in relation to the grade that Donhad is now replacing with its new product. Donhad explained that as it transitions its customers to the new grade, there will inevitably be a reduction in OneSteel's sales of the existing grade.

On the information available the Commission accepts that the loss of sales volume experienced by OneSteel, in relation to these grades, has not been caused by dumped goods but rather by an inability to supply the new product.

8.8 Findings

In conclusion, the Commissioner has found that:

- although the Commissioner established price undercutting for two quarters during the investigation period, when comparing OneSteel's selling prices into the grinding media market with the relevant selling price of the imported product from China for the entire investigation period, the Commissioner does not consider the injury caused by undercutting to be more than the ebb and flow of business;
- the majority of the lost sales volume experienced by OneSteel is due to quality concerns with specific grades and a decision by the customer to cease purchasing these grades from OneSteel, as well as the development of a new grade which OneSteel does not have the capability to supply;
- when considering the remaining sales volume that had been lost during the investigation period, outside of the quality concerns and the development of the new grade, the Commission does not consider this volume to be material;
- as a result, the Commission is satisfied that dumping has caused negligible injury to OneSteel and Milltech; and
- in the event that the dumping had caused material injury to OneSteel and Milltech, the Commissioner is satisfied that this injury, when considered in the context of the Australian industry as a whole (that is, inclusive of Moly-Cop), is not material.

9 NON-INJURIOUS PRICE

9.1 Preliminary assessment of NIP

The Commission has determined a NIP by first calculating an unsuppressed selling price (USP) taking the selling prices of the Australian industry members for the period from 1 October 2012 to 30 September 2013. The Commission has then deducted verified importation costs to calculate the NIP. These deductions are necessary in order to bring the price back to a FOB level.

9.2 Discussion

The Commission generally derives the NIP by first establishing a price at which the local industry might reasonably sell its product in a market unaffected by dumping. This is referred to as the USP. The preferred approach of the Commission is to establish the USP observing the following hierarchy:

1. industry selling prices at a time unaffected by dumping;
2. constructed industry prices – industry CTMS plus profit; or
3. selling prices of undumped imports.⁴⁶

OneSteel claims that if the USP was to be considered, the market for alloy round bar has been so affected by dumped goods from various sources, that it was not suitable to consider industry selling prices at a time unaffected by dumping. Therefore, OneSteel proposes using its verified cost to make and sell data, plus a rate of profit of 17 per cent.⁴⁷

The Commission notes that under the first step of the hierarchy above, the selling prices of the industry should come from a time which is unaffected by dumping. The Commission has not found evidence that selling prices of alloy round bar for the period from 1 October 2012 to 30 September 2013 were affected by dumping, nor has evidence of this been presented to the Commission. The Commission sees no sound reason to depart from the approach to take industry selling prices at a time unaffected by dumping.

A weighted average USP has been determined based on a weighted average of all Australian industry selling prices during the period from 1 October 2012 to 30 September 2013.

The Commission then deducted verified costs relating to the importer's profit and SG&A costs, as well as other verified import costs. This then provided a NIP for the exporters and the Commission then undertook analysis to compare this with the weighted-average FOB export price of alloy round bar from the exporters. This analysis is contained in **Confidential Attachment 20 – USP and NIP**.

⁴⁶ The Manual, page 133 refers.

⁴⁷ OneSteel submitted that 17 per cent was a suitable rate of profit based on a report prepared by McKinsey.

10 PROPOSAL TO TERMINATE INVESTIGATION

Section 269TDA outlines when the Commissioner must terminate an investigation.

Based on the findings in this SEF, and subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation:

- in accordance with subsection 269TDA(13), because the injury to the Australian industry, that has been, or may be, caused by dumped exports from China is negligible.

In addition, as noted in section 6.8.4 above, the Commissioner has terminated the investigation in so far as it relates to Yonggang in accordance with subsection 269TDA(1).

ADN 2017/152 was published on the public record on 27 October 2017.

11 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Structure of Australian industry
Confidential Attachment 2	Suzhou – reconstructed normal value
Confidential Attachment 3	Yonggang – reconstructed normal value
Confidential Attachment 4	Daye – reconstructed normal value
Confidential Attachment 5	Injury
Confidential Attachment 6	Price Undercutting
Confidential Attachment 7	Price undercutting examples
Confidential Attachment 8	Price depression & suppression
Confidential Attachment 9	Lost sales volume
Confidential Attachment 10	Donhad Presentation
Confidential Attachment 11	Rolling details
Confidential Attachment 12	Quality reports
Confidential Attachment 13	Test results
Confidential Attachment 14	Specific diameter
Confidential Attachment 15	Value proposition details
Confidential Attachment 16	Sample contract (termination clause)
Confidential Attachment 17	Development of new grade
Confidential Attachment 18	Excluded suppliers
Confidential Attachment 19	Email evidence
Confidential Attachment 20	USP and NIP Analysis
Appendix 1	Particular Market Situation Finding

APPENDIX 1 – MARKET SITUATION ASSESSMENT

A1 Introduction, applicants' claims and Commission's finding

A1.1 Introduction

This appendix sets out the Commission's assessment of the applicant's claims that there was a situation in the Chinese alloy round steel bar (round bar) market during the inquiry period such that sales in this market were not suitable for determining normal values under subsection 269TAC(1) of the Act.

A1.2 Applicants' claims

The applicants claim that during the investigation period, a particular market situation (market situation) in the Chinese round bar market made sales in that market unsuitable for determining normal values under subsection 269TAC(1). In support of this view, the applicant cited the interventions made by the Government of China (GOC) within the Chinese iron and steel market including through its policies and plans along with its VAT arrangements.

A1.3 Commission's finding

The Commission has found that because of the market situation within the Chinese round bar market during the inquiry period, sales from this market are not suitable for use in determining normal values under subsection 269TAC(1).

A2 Assessment framework and information relied upon

A2.1 Commission's framework for assessing market situation claims

Subsection 269TAC(2) provides for circumstances where the normal value of goods cannot be ascertained under subsection 269TAC(1) "because 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 subsection 269TAC(1)".⁴⁸ If there is a market situation then normal values may instead be constructed under subsection 269TAC(2)(c) or determined by reference to prices from a third country under subsection 269TAC(2)(d).

The Act does not prescribe what is required to reach a finding of market situation however it is clear that a market situation will arise when there is some factor or factors impacting the relevant market in the country of export generally with the effect that sales in that market are not suitable for use in determining normal value.

In considering whether sales are not suitable for use in determining a normal value under subsection 269TAC(1) because of the situation in the market of the country of export the Commission may have regard to factors such as:

⁴⁸ Section 269TAC(2)(a)(ii) is Australia's implementation of Article 2.2 of the WTO *Anti-Dumping Agreement*.

- whether the prices are artificially low; or
- whether there are other conditions in the market that render sales in that market not suitable for use in determining prices under subsection 269TAC (1).

Government influence on prices or input costs could be one cause of artificially low pricing. Such government influence could come from any level of government.

In assessing whether a market situation exists due to government influence, the Commission will assess whether government involvement in the domestic market has materially distorted market conditions. If market conditions have been materially distorted then domestic prices may be artificially low or not substantially the same as they would be in a competitive market.

Prices may also be artificially low or lower than they would otherwise be due to government influence on the costs of inputs. The Commission looks at the effect of any such influence on market conditions and the extent to which domestic prices can no longer be said to prevail in a normal competitive market. Government influence on costs will disqualify the associated sales if those costs are shown to affect domestic prices.

The Manual provides further guidance on the circumstances in which the Commission will find that a market situation exists.⁴⁹

A2.2 Evidentiary threshold

When relevant and reasonably reliable prima facie evidence supporting the proposition that there is a market situation is set out in the application, and an investigation is initiated, the Commission will:

- notify relevant governments and exporters of the claims and of the evidence provided and further information will be sought from such governments and exporters; and
- if the relevant government or exporters fail to respond, or do not provide probative evidence in response, all available evidence is weighed up, including prima facie evidence contained in the application.

A2.3 Information relied upon to undertake the Commission's assessment

The applicants cited the following information sources in support of their claim:

- the Commission's previous market situation assessments concerning the Chinese grinding balls, rod in coil and rebar markets;
- the Commission's Analysis of Steel and Aluminium Report to the Commissioner of the Anti-Dumping Commission; and
- confidential pricing information demonstrating the suppressed domestic price for billet and hot rolled bar within China compared to other regional steel producers and consumers, namely Japan, Korea and Taiwan.

In undertaking this assessment, the Commission also considered the following:

⁴⁹ See for example chapter 7 of the Manual.

- responses to the exporter questionnaire by selected exporters; and
- desktop research, including information obtained from departmental resources and third party information providers.

The Commission did not receive a response to the government questionnaire from the Government of China (GOC) for this inquiry. This impeded the Commission's ability to undertake its assessment.

In line with its legislative requirements, the Commission's market situation assessments are undertaken at the level of the goods being investigated. When undertaking its assessment, the Commission has also given consideration to conditions within the broader Chinese steel industry. This approach was adopted because of the lack of available information concerning certain aspects of the Chinese billet and alloy bar markets, which was in part due to the GOC's decision not to provide the Commission with a response to its government questionnaire.

In this assessment, GOC refers to all levels of the Chinese Government unless specified otherwise. Similarly, the Commission has referred to Chinese State Owned Enterprises and State Invested Enterprise collectively as SOEs. The Commission has adopted this approach as it considers the GOC has the ability to directly influence decision making within these two types of entities in a similar fashion.

A3 Conditions in the Chinese round bar market

The Commission was unable to directly assess conditions within the Chinese alloy bar market because of its inability to obtain consumption, production or pricing data. This was in part due to the decision by the GOC not to respond to the Commission's government questionnaire. Instead, the Commission has undertaken analysis of the Chinese rebar, rod-in-coil and hot bar markets as a guide to conditions within the alloy bar market. The Commission considers this approach appropriate as these product markets are closely related to the Chinese round bar market, including through their use of steel billets as their primary input, and hence are a satisfactory indication of market conditions within it. As all these products share a common primary input, conditions within the considered markets will significantly impact upon the billet prices within China and hence on the conditions within the Chinese alloy bar market.

Between 2010 and 2016 billet, rebar and wire coil prices all declined by approximately 50%, 40% and 40% respectively. While price declines within these Chinese product markets was broadly consistent with pricing trends in non-Chinese regions, the relative decline in Chinese prices were typically greater in China compared to other countries within Asia and other regions more broadly. In contrast to the trends in declining absolute and relative prices for these product categories, Chinese production of hot rolled long products, including rebar, wire coil and hot rolled bar continued to grow. Between 2010 and 2015 Chinese production of hot rolled long products increased by around 35% with rebar, wire rod and hot rolled bar increasing by around 45%, 40% and 10% respectively. The relatively strong growth in production of these products, despite weakened absolute and relative pricing, is also reflected in China's share of total world production of hot rolled long products increase from around 55% in 2010 to 62% in 2015.

It is the Commission's view that the continued growth in Chinese production of these products, despite a significant and sustained weakening in prices, when compared to other steel producing regions reflects the structural nature of imbalances between capacity, production and consumption within Chinese steel market, including within the Chinese alloy bar market.

Regarding the sustained growth in steel production despite weakened pricing between 2010 and 2015, the Commission considers that while it is not unreasonable for capital intensive industries to display a degree of production rigidity in the face of price and profit volatility over the short term, this should not persist over the medium to long term. In terms of capacity utilisation, industry sources indicate that during the investigation period utilisation rates across the broader Chinese steel industry averaged around 70%, significantly below more normal levels of between 85% and 90%.⁵⁰ In regards to profitability, the China Iron and Steel Association (CISA) estimated in late 2015, around 48% of the Chinese steel industry was unprofitable, with total losses for its members reaching RMB 65 billion in 2015.⁵¹ ⁵² Other sources losses at around RMB 100 billion, making 2015 the worst year on record.⁵³ Notable Chinese steel producers to record losses during the inquiry period include Baosteel, Wuhan Iron and Steel and Anshan Iron and Steel.⁵⁴

A4 Factors contributing to imbalances in Chinese steel markets

The Commission considers the GOC's involvement within and influence over the steel industry to be a primary cause of the prevailing structural imbalances both within the broader steel industry, semi-finished product markets such as steel billet and finished steel product markets such as alloy bar markets. This involvement includes the issuing of planning guidelines and directives along with provision of direct and indirect financial support.⁵⁵ ⁵⁶ The ongoing nature of the GOC's involvement within and distortion of billet and rolled product markets is also reflected by the Commission's numerous market situation findings, concerning these products, as listed below.

⁵⁰ OECD, 2017, Steel market developments, Q2 2017, p 8. OECD, 2016. Recent market developments in the global steel industry, p6. CEPPI, 2016, China's 13th Five Year Plan: In Pursuit of a Moderately Prosperous Society, CEPPI Policy Brief No. 12 September 2016, p3. Duke Centre on Globalisation, Governance & Competitiveness, 2016. Overcapacity in Steel: China's role in a global problem. September 2016, p24.

⁵¹ Liu. H & Song. L, 2016. Issues and Prospects for the Restructuring of China's Steel Industry. China's New Sources of Economic Growth. Vol.1. Reform, Resources and Climate Change, p343 & 346.

⁵² Platts, 2015. Global Market Outlook, Steel Business Briefing. November 2015, p2.

⁵³ Ministry of Industry and Information Technology, 2016. '2015 Non-ferrous Metals Industry Operations and 2016 Outlook', <http://www.miit.gov.cn/n1146285/n1146352/n3054355/n3057569/n3057572/c4636604/content.html>

⁵⁴ Platts, 2015. Global Market Outlook, Steel Business Briefing. November 2015, p2 & 6.

⁵⁵ Support measures include stimulus programs, land and energy subsidies and soft lending policies.

⁵⁶ Duke, 2016, p 24 & 34.

- Investigation (No. 300) (2016) Steel reinforcing bar.
- Investigation (No. 301) (2016) Rod in coil.
- Investigation (No. 316) (2016) Grinding balls.

In drawing these conclusions regarding the GOC's involvement in the distortion of Chinese steel markets, the Commission also recognises the GOC's recent attempts to restructure and reorganise the industry to manage excess capacity, oversupply and environmental concerns. While noting these efforts are targeted at correcting current imbalances and resulting distortions, the Commission considers them to be further evidence of the extent of distortions and GOC's involvement within and influence over the broader steel industry during the investigation period. Examples of these capacity management measures announced during the investigation period include tighten bank lending to smaller mills; industry consolidation through mergers and acquisitions; and use of stricter environmental requirements to forcible shut down capacity.⁵⁷

Specific initiatives announced in 2015 and 2016 to address these imbalances include the Central Government's 'supply-side reform' initiative, *'Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry'*; and *'The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry'*. The *'Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry'*, proposes that SOE capacity be reduced by 100 to 150 million tonnes by 2020, via the banning of new steel projects and elimination of 'zombie mills'.⁵⁸ The central government has also pledged a RMB 100 billion fund for employee compensation, social security payments, and plant closure incentives in the coal and steel sectors.⁵⁹ The *'Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry'* strictly forbids the registration of new production capacity in any form and demands that any production that does not meet environmental, energy consumption, quality, safety or technical standards be taken offline.⁶⁰

Examples of industry's response to these directives is reflected in the recently announced restructuring of Baosteel Group and Wuhan Iron and Steel Group, two large centrally controlled SOEs whose merger is expected to result in the removal of 60 million tonnes of capacity by 2020. Industry sources suggest that the planned merger between Baosteel and Wuhan represents the first move towards the GOC's goal of raising the SOE's share of Chinese steel production from around 40% to 60% reinforcing the Commission's view regarding the GOC's influence over the structure of the domestic steel industry. Hebei Iron and Steel, another major Chinese steel producer also indicated that it plans to shut its eight million tonnes Xuanhua Iron and Steel facility, consolidate capacity at its

⁵⁷ Platts, 2016. Global Market Outlook, Steel Business Briefing. January 2016 p14.

⁵⁸ Liu. H & Song. L, 2016, pp338-339. AME Group, 2016. Steel 2016: June Quarter, Strategic Market Study. 2016, Q2. p9.

⁵⁹ Duke, 2016, p29.

⁶⁰ KPMG, 2016. The 13th 5 Year Plan: China's Transformation and Integration with the World Economy, p29. Sourced from 'State Council Guiding Opinions on Reducing Overcapacity in the Iron and Steel Industry', State Council, 4 February 2016.

Tangshan and Chengde plants, and relocate capacity by building a new plant under the GOC's 'reduced capacity swap' principle.⁶¹

In citing the GOC's ongoing interventions within the domestic steel industry, it is the Commission's view that to date these attempts to address existing structural imbalances have had limited success. Constraints on the effectiveness of these initiatives not only relate to the extent of the imbalances but also the difficulties in coordinating activities between central, provincial and local levels of government. The resistance of provincial and local governments to closing down mills relates to their role as major employers, sources of tax revenue and providers social services within their respective regions.⁶² Specific examples of these issues include the reliance of their tax systems on business revenue (including production based VAT) and GDP oriented performance measures which encourage over investment.⁶³

The effectiveness of the GOC's attempts to address overcapacity have also been constrained by its desire to promote the replacement of older mills with new larger and more efficient mills. While likely to improve the industry's structure over the longer term, its current impact, including throughout the inquiry period, has been to increase production and exacerbate the existing structural imbalances. Industry sources note that the extent of this issue is reflected in existing plans to bring a further 65 million tonnes of capacity on line by 2018.⁶⁴

The difficulties faced by the GOC in achieving these objectives is also reflected in the reality that many smaller mills need to be shut down to offset the commissioning of new larger mills and the difficulties in ensuring that once mills are closed, they are not brought back on line when market conditions improve.⁶⁵ An example of this issue can be seen in recent announcements by Baosteel which while indicating that it would mothball 2.5 million tonnes of capacity as part of its plan to address overcapacity, also commissioned nine million tonnes of new capacity at its Zhanjiang facility.⁶⁶ The GOC's attempts to remove unprofitable capacity from the industry have also been constrained by the significant presence of 'zombie mills' which under normal competitive market conditions would be shut down due to either poor profitability or insolvency. The inability of the GOC to permanently remove capacity and address the imbalances was demonstrated in early 2016 when in response to improved market conditions domestic supply rapidly expanded. As noted by the CISA, stronger prices allowed suspended and closed mills to resume production to recover their losses. By the end of March 2016, crude steel output had climbed to more than 70 million tonnes, the highest monthly level in the preceding year.⁶⁷ The challenges posed by these issues is also evident in commentary by the CISA which

⁶¹ AME Group, 2016. Steel 2016: June Quarter, Strategic Market Study. 2016, Q2. p9 & 19.

⁶² Platts, 2016. Global Market Outlook, Steel Business Briefing. April 2016 p16.

⁶³ Duke, 2016, p38.

⁶⁴ Platts, 2016. Global Market Outlook, Steel Business Briefing. January 2016 p14.

⁶⁵ Liu. H & Song. L, 2016, p357.

⁶⁶ Platts, 2016. Global Market Outlook, Steel Business Briefing. June 2016 p11.

⁶⁷ Platts, 2016. Global Market Outlook, Steel Business Briefing. May 2016 p13.

expects the ‘shake out’ of the industry to take at least a decade and that Chinese mills were in no hurry to consolidate despite the government’s attempts to encourage mergers and acquisitions.⁶⁸

A5 GOC influence in the Chinese steel markets

Key mechanisms through which the Commission considers that the GOC has distorted conditions within the Chinese steel industry, along with the steel billet (including alloy billet) and alloy bar markets during the inquiry period are listed below.

- Role and operation of SOEs.
- Industry planning guidelines and directives.
- Provision of direct and indirect financial support.
- Taxation and tariff policies.

A5.1 Role and operation of SOEs

Between 2010 and 2015, Chinese SOEs accounted for around 40% of total Chinese steel production and for eight of the 10 largest Chinese steel producers.^{69 70} Some estimates are that SOE production account for as high as 60% of total steel production.⁷¹ It is the Commission’s understanding that this level of GOC involvement within the broader Chinese steel industry has persisted during 2016. While the Commission does not consider the presence of these entities alone causes markets to be distorted, it does mean that there is a higher likelihood that the GOC’s plans and directives will be adhered to. It is also the Commission’s view that steel producing SOEs have and continue to receive significant direct and indirect financial support from central, provincial and local levels of government as means to increase tax revenues, expand employment and maintain social stability. Examples of these support mechanisms include: government subsidies; support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees); and loans from state-owned banks.⁷²

The Commission considers these mechanisms have supported the rapid expansion of steel production capacity in the SOE segment, in spite of repeated orders by the central government to reduce the scale of steel production. It is also the Commission’s view that these support mechanisms have created rigidities in the way recipient firms respond to price and profit signals and hence have significantly contributed to the excessive

⁶⁸ Platts, 2016. Global Market Outlook, Steel Business Briefing. March 2016 p15.

⁶⁹ Liu. H & Song. L, 2016, p349. Estimates for the Chinese HRC and HSS markets could not be developed due to a lack of available information, including the GOC’s decision not to respond to the government questionnaire.

⁷⁰ Estimates based on production data sourced World Steel Association (2015). Hesteel Group; Baosteel Group; Ansteel Group; Shougang Group; Wuhan Steel Group; Shandong Steel Group; Maanshan Steel; and Tianjin Bohai Steel.

⁷¹ Platts, 2016. Global Market Outlook, Steel Business Briefing. January 2016 p14.

⁷² Liu. H & Song. L, 2016, p348.

investment in capacity, excess steel production and distorted prices. These distortions are also reflected in that out of the 10 largest losses amongst steel producing firms within China in 2015, nine were SOEs.⁷³

The significance of SOEs to the broader Chinese economy, including the steel industry, is also reflected in the State Council of China's recent '*Guidance on the promotion of central enterprises restructuring and reorganisation*'. In introducing this guidance, the State Council notes the important role of 'central enterprises' 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.

A5.2 Industry planning guidelines and directives

The Commission considers that the GOC's involvement within the Chinese steel industry, through its planning guidelines and directives also materially contributed to its overcapacity, oversupply and distorted structure during the inquiry period. The extent of this involvement is reflected through the numerous planning guidelines and directives regarding the industry's structure and composition, listed below. In noting that some of the listed documents are now dated, the Commission considers that this further demonstrates long term involvement of the GOC within the Chinese steel industry and hence it's central role in contributing to the structural imbalances and distorted prices during the inquiry period.

- National Steel Industry Development Policy (2005).
- Blueprint for the Adjustment and Revitalisation of the Steel Industry (2009).
- 2011-2015 Development Plan for the Steel Industry (2011).
- Steel Industry Adjustment Policy (2015 Revision).
- Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry (2016).
- The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry to Gain Profits and Development (2016).

In addition to the planning guidelines and directives listed above, the GOC's involvement within the steel industry is also demonstrated through broader industrial restructuring and reorganising directives listed below.⁷⁴

- Notice of Several Opinions on Curbing Overcapacities and Redundant Constructions in Certain Industries and Guiding the Healthy Development of Industries (2009).

⁷³ Liu. H & Song. L, 2016, p339 & 352.

⁷⁴ These directives are targeted at multiple industries including the Chinese steel industry.

- Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013).
- Guiding opinions on Resolving Serious Excess Capacity Contradictions (2013).
- Directory Catalogue on Readjustment of Industrial Structure (2013 Amendment).
- Guidance on the promotion of central enterprises restructuring and reorganisation (2016).

A5.2.1 Relevance and enforceability of planning guidelines and directives

In assessing the relevance of these planning guidelines and directives, the Commission also 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 view that they are for guidance and are not enforceable.

Mechanisms through which the Commission considers the GOC is able to enforce these guidelines and directives include the presence and role of SOE's within the broader steel industry, the role the National Development and Reform Commission (NDRC) and explicit enforcement mechanisms. In regards to SOEs, their significant share of total Chinese steel production and propensity to follow government guidance and directives ensures the GOC is able to 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: revoking of pollutant discharge permits; restrictions on the provision of new credit support; restrictions on the approval of new investment projects; restrictions on the issuing of new and cancelling of existing production licenses.

A5.2.2 Summary of themes, objectives and implementation

Key themes and objectives of major GOC planning guidance and directives used to influence the structure of the Chinese steel industry are listed below.

National Steel Industry Development Policy (2005)

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

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

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

- Development of domestic and overseas resources and guarantee the safety of the industry.

2011-2015 Development Plan for the Steel Industry (2011)

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

Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013)⁷⁵

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

Steel Industry Adjustment Policy (2015 Revision)

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

Circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy

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

State Council Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation

- SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach.

⁷⁵ <http://rhg.com/notes/beijings-2015-industry-consolidation-targets-problem-or-solution>

- 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, nonferrous metal, shipping, construction materials, tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.

A5.3 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.⁷⁶ Similar programs previously identified by the Commission's countervailing investigations concerning the Chinese steel industry are listed below.⁷⁷

While these investigations do not correspond with the current inquiry period, it is the Commission's view that these programs have directly contributed to conditions within the Chinese steel industry, along with the steel billet (including alloyed billet) and alloyed bar markets during this period by providing direct financial support to recipient steel producers. This type of financial support not only inflates the profitability of recipient firms encouraging an expansion of supply but also support otherwise unprofitable producers, delaying their timely exit from the industry.

- Preferential Tax Policies in the Western Regions
- Preferential Tax Policies for High and New Technology Enterprises
- Tariff and VAT Exemptions on Imported Materials and Equipment
- Superstar Enterprise Grant
- Innovative Experimental Enterprise Grant
- Special Support Fund for Non-State Owned Enterprises
- Venture Investment Fund of Hi-Tech Industry
- Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
- Water Conservancy Fund Deduction
- Anti-Dumping Respondent Assistance
- Environmental Protection Grant
- High and New Technology Enterprise Grant
- Independent Innovation and High-Tech Industrialisation Program
- Environmental Prize
- Provincial Emerging Industry and Key Industry Development Special Fund
- Environmental Protection Fund

⁷⁶ Duke, 2016, p26.

⁷⁷ Relevant investigations include REP 316 (2016), REP 331 (2016), REP 322 (2016) and REP 193 (2015).

- Intellectual Property licensing
- Financial Resources Construction Special Fund
- Reducing pollution discharging and environmental improvement assessment award
- Comprehensive utilisation of resources – VAT refund upon collection
- Grant of elimination of out dated capacity
- Grant from Technology Bureau
- Transformation technique grant for rolling machine
- Preferential loans and interest rates
- International trade increase project fund
- Industrial economy reform and development fund
- Tax contribution award
- National controlled essential pollutant source supervision system third party operation and maintenance subsidy program
- Scientific program awards in high and new scientific zone

A5.4 Taxation arrangements

The GOC has traditionally operated a VAT rebate and export tax system for certain exports. Under the Chinese VAT system, a 17% tax is paid on consumption of goods, including the inputs used in the production of steel. For goods produced and sold within China, the tax is ultimately paid by the final consumers of the particular good. Because it is difficult for exporters to pass these taxes on, some steel exporters have traditionally been compensated for VAT paid during the production process through VAT rebates. Through altering the VAT rebates and export taxes applied to steel exports, the GOC is able to alter the relative profitability of different types of steel exports and of exports compared to domestic sales. For example, by either reducing VAT rebates or increasing export taxes on steel exports, the GOC is able to reduce the relative profitability of exports to domestic sales and hence provide significant incentives for traditional exporters to redirect their product into the domestic Chinese market. By using these mechanisms to alter the relative supply of particular steel products in the domestic market, the GOC is also able to influence the domestic price for those products.

It is the Commission's understanding that export taxes and VAT rebates for exports of steel products containing alloys such as chromium were in place during the investigation period. The Commission sought clarification on these tax arrangements from the GOC, however the GOC declined to response to the government questionnaire. It is the Commission understanding that during the investigation period exports of semi-finished products including billet attracted export taxes of around 25%, while export taxes on alloyed products including square and round bar were around 9% to 13%.⁷⁸ Based on the information provided by the applicant and other information available to the Commission, it is likely that export tax and VAT rebate arrangements had contributed to the distortion of the Chinese alloy bar market during the investigation period.

⁷⁸ Platts, 2015. Global Market Outlook, Steel Business Briefing. November 2015 p13. Platts, 2016. World Steel Review, Steel Business Briefing. 27 January 2016 p16.

A6 Assessment of particular market situation

Based on the proceeding analysis, the Commission has concluded that the GOC materially influenced conditions within the Chinese alloyed billet and alloyed bar markets during the inquiry period. The GOC was able to exert this influence through its directives and oversight, subsidy programs, taxation arrangements and the significant number of SOEs.

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