PUBLIC FILE

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

TERMINATION REPORT NO. 384

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

25 January 2018

CONTENTS

ABBREVIATIONS

$	Australian dollars
ABF	Australian Border Force
ACCC	Australian Competition and Consumer Commission
ADN	Anti-Dumping Notice
the Act	*Customs Act 1901*
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	*Consideration Report No. 384*
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 Injury Direction	*Ministerial Direction on Material Injury 2012*
the investigation period	1 October 2015 to 30 September 2016
the Manual	*Dumping and Subsidy Manual*
Milltech	Milltech Pty Ltd
mm	millimetres
Moly-Cop	Commonwealth Steel Company Pty Ltd trading as Moly-Cop
NIP	non-injurious price

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 report the Commission has referred to the applicant as "OneSteel".

NSW	New South Wales
OCOT	ordinary course of trade
PAD	preliminary affirmative determination
PAD Direction	Customs (Preliminary Affirmative Determinations) Direction 2015
the Parliamentary Secretary	the Assistant Minister for Science, Jobs and Innovation and the Parliamentary Secretary to the Minister for Jobs and Innovation[2]
the Regulation	*Customs (International Obligations) Regulation 2015*
Re ICI Australia Operations	*Re ICI Australia Operations Pty Ltd v Donald Fraser, the Anti-Dumping Authority and the Minister of State for Small Business and Customs* [1992] FCA 120
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
Swan Portland Cement	*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
the Tariff	Chapter 72 under Schedule 3 of the *Customs Tariff Act 1995*
TKM	Thyssen Krupp Mannex
TRF	tagger, ring and foil ends
USP	unsuppressed selling price
VAT	Value Added Tax
WIP	work in progress
WTO	World Trade Organization
Yonggang	Jiangsu Yonggang Group Co. Ltd

[2] On 20 December 2017, the Prime Minister appointed the Parliamentary Secretary to the Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation. For the purposes of this investigation, the Minister is the Parliamentary Secretary to the Minister for Jobs and Innovation.

1 SUMMARY

1.1 Introduction

This report 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.

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 of the Anti-Dumping Commission (the Commissioner) in conducting investigations in relation to the goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Parliamentary Secretary. Section 269TDA describes the circumstances in which the Commissioner must terminate an investigation.

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 complied with the requirements of subsection 269TB(4);
- there is an Australian industry in respect of like goods; and
- there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of 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]

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.

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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.

No PAD was made during this investigation, as the Commissioner was not satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of alloy round bar exported to Australia from China.

1.2.3 Statement of essential facts

In accordance with subsection 269TDAA, the statement of essential facts (SEF) was published on 27 October 2017.[5]

The SEF was originally due to be placed on the public record by 30 April 2017. However, the Commission sought and was granted extensions of time to complete the SEF.[6]

1.2.4 Termination report

The Commissioner's final report and recommendations in relation to this investigation must be provided to the Parliamentary Secretary on or before 25 January 2018.

Following publication of the SEF, the final report was originally due to be provided to the Parliamentary Secretary by no later than 11 December 2017. The Commission sought and was granted an extension of time to complete the investigation to 19 January 2018.[7] The Commission sought and was granted a further extension of time to complete the investigation to 25 January 2018.[8]

As the Commissioner has concluded that this investigation is terminated under subsection 269TDA(13), the report is not required to be provided to the Parliamentary Secretary.

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).

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

6 The Commissioner 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.

7 ADN No. 2017/178 refers.

8 ADN No. 2018/07 refers.

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 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)	21.9%
	Uncooperative and all other exporters	73.7%

Table 1: 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 7.7.3.

1.3.6 Causation assessment (Chapter 8)

The Commissioner is satisfied that the injury, if any, to the Australian industry that has been, or may be, caused by the dumped goods from China is negligible.

1.3.7 Non-injurious price (Chapter 9)

The Commissioner considers that the findings in Chapter 6 concerning the existence of a particular market situation in China and the operation of the Customs Tariff (Anti-Dumping) Act 1975 place no obligation on him to consider the lesser duty rule.

1.3.8 Conclusion (Chapter 10)

Based on the findings outlined in this report, the Commissioner has terminated the investigation in accordance with subsection 269TDA(13) because the injury, if any, to the Australian industry that has been, or may be, caused by dumped exports from China is negligible.

As outlined in SEF 384, the investigation in so far as it related to Jiangsu Yonggang Group Co. Ltd (Yonggang) was previously terminated in accordance with subsection 269TDA(1)(b) as Yonggang was found not to be dumping. ADN No. 2017/152 provides public notice of this decision.[9]

[9] Refer to document 48 on the electronic public record for Investigation 384.

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 alleged 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 alleged that the industry has been injured through:

- 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 and 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 (the investigation period); 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 (the injury analysis period).

2.2 Previous cases

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

2.3 Statement of Essential Facts

A SEF was published on 27 October 2017 and is available on the public record.[10]

[10] Refer to document 47 on the electronic public record for Investigation 384.

2.4 Submissions from interested parties

The Commissioner received several submissions prior to the publication of the SEF. All submissions were considered by the Commissioner in reaching the preliminary findings contained in the SEF.

The Commission received further information from Daye Special Steel Co. Ltd (Daye) on 23 October 2017 in connection with the verification of its data and the calculation of its dumping margin. The Commissioner did not have regard to the further information provided by Daye as to do so would have prevented the timely placement of the SEF on the public record.[11] The Commission has considered Daye's information in preparing this report which has resulted in a revision of the dumping margin.

Following publication of the SEF, the Commission received submissions from the following interested parties:

- Milltech;[12]
- OneSteel;[13]
- Donhad Pty Ltd (Donhad);[14] and
- Daye.[15]

The Commissioner has considered these submissions in reaching the conclusions contained in this report.

2.5 Public Record

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available 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 report.

11 Subsection 269TDAA(3).

12 Refer to document 49 on the electronic public record for Investigation 384.

13 Refer to documents 53 and 59 on the electronic public record for Investigation 384.

14 Refer to documents 54 and 58 on the electronic public record for Investigation 384.

15 Refer to document 56 on the electronic public record for Investigation 384.

3 THE GOODS AND LIKE GOODS

3.1 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:
    - o 'stainless steel' as defined under Note (e) "Stainless steel" to the Tariff; or
    - o '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:

Tariff classification (Schedule 3 of the *Customs Tariff Act 1995*)				
Tariff code	***Statistical code***	***Unit***	***Description***	***Duty rate***
72282010	44	Tonnes	Alloy bars, silico-manganese steel, flattened circles	5% DCS[16]: 4% DCT[17]: 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[18]	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

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

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

18 Operative since 1 July 2015.

3.5 Like goods

As outlined in its application, OneSteel claimed that the alloy round bar manufactured locally is a like good to the imported alloy round bar. OneSteel stated that alloy round bar is manufactured in accordance with the industry standards applicable to, or the customer-specific requirements applicable to, the different types of alloy round bar produced. It stated 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 claimed 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.

3.5.1 The Commission's assessment

The Commission gathered evidence from Australian industry members OneSteel, Milltech and Moly-Cop, and both importers and exporters. The Commission's assessment with regards to the like goods framework is outlined below.

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 the Tariff. 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 locally produced alloy round bar and imported alloy round bar to be physically alike.

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 locally produced alloy round bar and imported alloy round bar to be commercially alike.

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 locally produced alloy round bar and imported alloy round bar are considered to be functionally alike.

<u>Production likeness</u>

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.

3.5.2 Conclusion

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 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 domestic 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 claimed 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, South Australia 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, a majority of which is used 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.

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, New South Wales (NSW). It produces liquid steel using an electric arc furnace, with steel scrap as the primary raw material. Alloys are added to the 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'.[19] 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. Moly-Cop sells a small volume of grinding rod to external customers.

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.

[19] Refer to document 14 on the electronic public record for Investigation 316.

4.4.3 Milltech

As set out in the file note dated 7 June 2017 and available on the public record,[20] 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. 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.[21] 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'.[22] 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'.[23] 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.[24]

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'.[25]

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[20] Refer to document 32 on the electronic public record for Investigation 384.

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

[22] Refer to document 19 on the electronic public record for Investigation 384.

[23] Refer to document 22 on the electronic public record for Investigation 384.

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

[25] Refer to document 32 on the electronic public record for Investigation 384.

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.

The Commission concluded 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.[26]

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 processes 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 its report that the case team would determine whether these bars are like goods.[27]

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

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

On 15 September 2017, Milltech provided a submission in relation to these bars.[28] Milltech noted that, in its 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 commercial, functional and production likeness.

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 accepted that the scope of the goods description includes 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 be like goods. 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 share of the total volume of production for the investigation period held by each of OneSteel, Moly-Cop and Milltech.

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

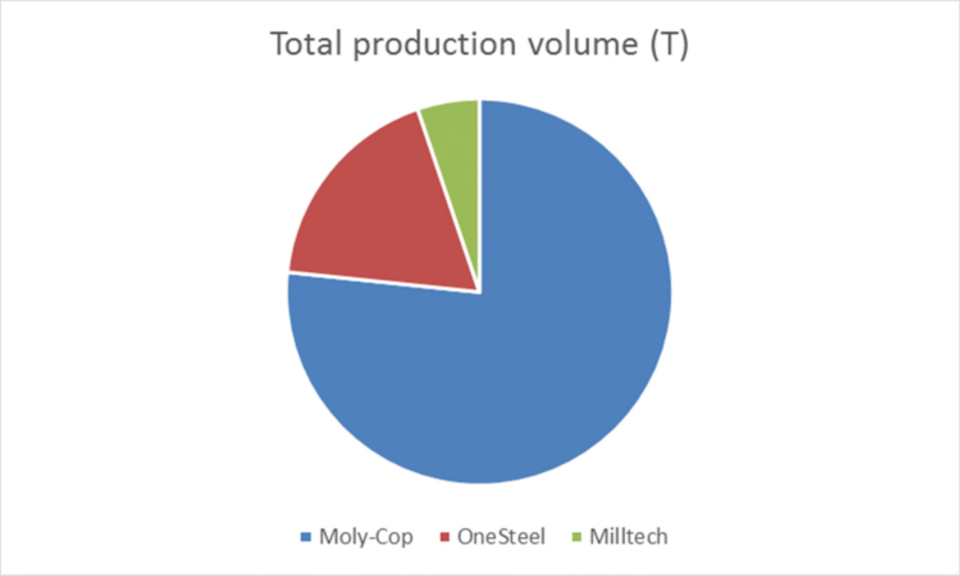

Figure 1: Share of alloy round bar production, 1 October 2015 to 30 September 2016

4.6 Submissions on the composition of the Australian industry

Donhad claimed that, during the investigation period, Moly-Cop was in fact the largest producer of alloy round bar in Australia.[29] Therefore, in Donhad's submission, the applicant does not comply with the minimum required production volumes to meet the standing requirements of the Act.[30]

OneSteel claimed that it is the largest and only producer of grinding bar in Australia.[31] OneSteel submitted 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 work-in-progress (WIP) by Moly-Cop. The company does not trade or deal in the Australian domestic market for the sale of grinding bar'.[32]

Moly-Cop stated that the Commission 'has correctly identified Moly-Cop as a significant producer of the goods'.[33]

The SEF noted that 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 of those Australian industry members who had expressed support for, or opposition to, the application).

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

30 Ibid. The relevant provisions are subsections 269TB(4)(e) and 269TB(6).

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

32 Ibid. Page 2.

33 Refer to document 51 on the electronic public record for Investigation 384·

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 did not express a view on whether it supports or opposes the investigation.

In response to the SEF, Donhad claimed that the Commission had 'overlooked' the second limb of the standing requirements set out in subsection 269TB(6) and that 'immediate termination of the investigation is required'.[34]

4.6.1 Commission's Assessment - scope of "Australian industry"

Notwithstanding Moly-Cop's confirmation that the Commission 'has correctly identified Moly-Cop as a signification producer of the goods',[35] the Commission considers that the inclusion of Moly-Cop in the Australian industry producing like goods based on its production of grinding bar is consistent with the Act and long standing practice.

The Act does not define 'Australian industry', however subsection 269T(4) states that, in relation to goods of a particular kind, if there is a person or persons who produce like goods in Australia, there is an Australian industry in respect of those like goods and, subject to subsection 269T(4A), the industry consists of that person or persons. The Commission considers that the fundamental activity in this subsection is that of production. Subsection 269T(2) states only that the goods produced by the Australian industry must be wholly or partly manufactured in Australia.

The Commission considers that there is no express requirement in the legislation for a member of the Australian industry to sell or trade the goods which they produce in the Australian market. 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 claimed that grinding bar produced by Moly-Cop is treated as WIP 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.

This position is consistent with the Commission's policy, as set out in the *Dumping and Subsidy Manual* (the Manual), which 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).'[36] 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 a whole'.[37]

Further, in the recent investigation into alleged dumping of resealable can end closures, the Commission identified an Australian entity manufacturing tagger, ring and foil ends (TRF – the goods the subject of that investigation) which were used as a component of a complete steel can unit. Despite these TRF not entering the Australian market, the

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34 Refer to document 54 on the electronic public record for Investigation 384.

35 Refer to document 51 on the electronic public record for Investigation 384.

36 *Dumping and Subsidy Manual* (April 2017), page 16 refers.

37 Ibid. Page 20.

Commission found that as this entity manufactured the goods during the investigation period, they were a member of the Australian TRF industry manufacturing like goods.[38]

Finally, the Commission notes that termination of an investigation as a result of insufficient standing is not an available ground under subsection 269TDA, and has not considered this point further.

4.7 Conclusion

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

38 *Anti-Dumping Commission Report No. 350*, sections 4.2 and 4.3 refer.

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 (in terms of sales of grinding rod) and imports from various countries, with a majority of imported supply coming from China. The Commission has estimated that 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 5.2.1, below.

5.2 Market structure

There is not a homogenous market for alloy round bar in Australia. Moly-Cop produces alloy round bar predominantly for self-supply, with a minor volume of grinding rods also produced. In the 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.

OneSteel is the largest volume seller in the alloy round bar market. Based on evidence obtained from Moly-Cop and Milltech, OneSteel's sales mix is indicative of the relative sizes of the market segments in the market. These shares are illustrated in Figure 2, below.

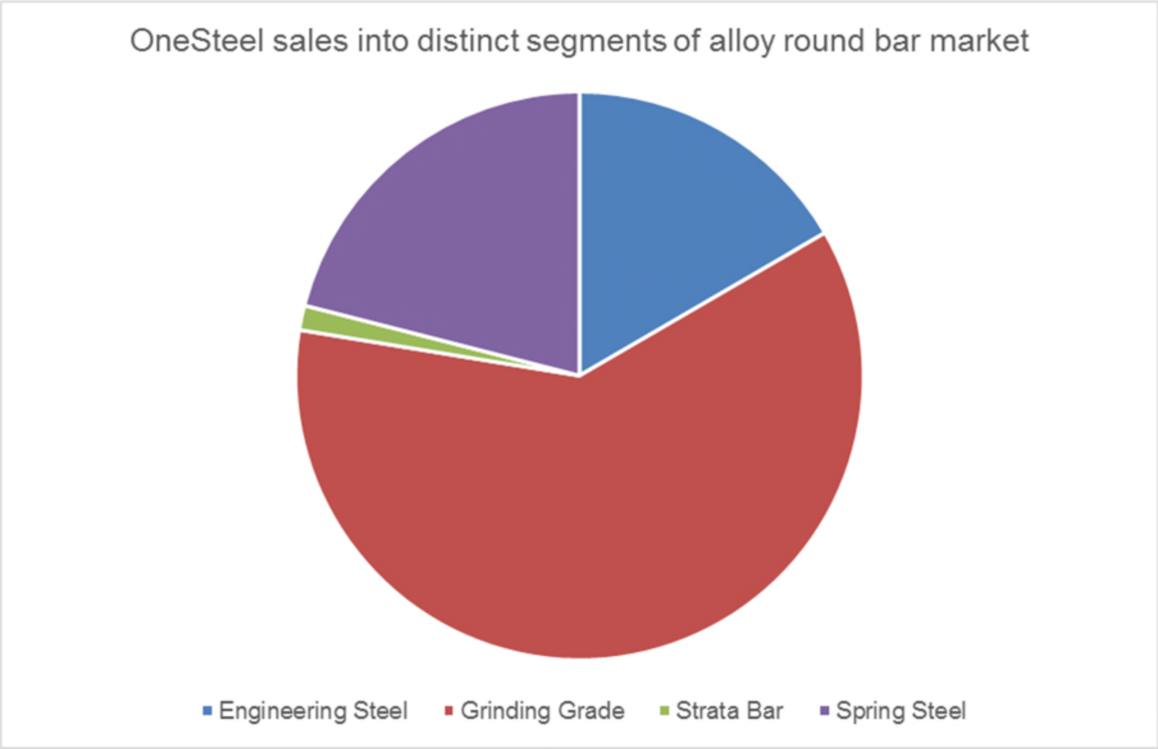

Figure 2: Sales by OneSteel into market segments

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.

In its application, OneSteel explained that it has sought to maintain a price model based on an index for the sale of grinding bar. 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 competition in the grinding bar market is on the basis of both 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 95 per cent of all imported alloy round bar under consideration is grinding bar. This information was confirmed by the major importer of alloy round bar, Stemcor, which completed an importer questionnaire and was subsequently visited by the Commission. A record of this verification visit has been placed on the public record.[39] Market share is discussed further at section 5.3, below.

<u>Engineering bar</u>

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 alloy round bar as the raw material to produce other forms of 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 negotiates prices for feedstock engineering bar on longer cycles than the ad hoc negotiations for grinding bar, usually 3 to 6 months cycles.

<u>Spring steel & Strata bar</u>

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 remained consistent during the injury analysis period.

Strata bar is used in mining operations, particularly in the development stages. The Commission notes that the size of the strata bar market has fluctuated during the injury analysis period. The Commission considers that the volumes of strata bar sold by the 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 sells the majority of its alloy round bar directly to further processors. A small volume is sold to distributors. The Commission notes that approximately 1 per cent of OneSteel's sales volume of alloy round bar is to a related party customer. A majority of Milltech's sales are to distributors, which also purchase imported goods.

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[39] Refer to document 15 on the electronic public record for Investigation 384.

5.3 Market size & share

Based on verified production and sales data of the Australian industry members, together with verified import data, the Commission has estimated the size of the Australian industry for alloy round bar in Figure 3 below. Figure 3 includes the sales volumes of OneSteel and Milltech for alloy round bar, as well as the production volume of Moly-Cop. The Commission observes that the size of the industry has declined since early in the injury analysis period.

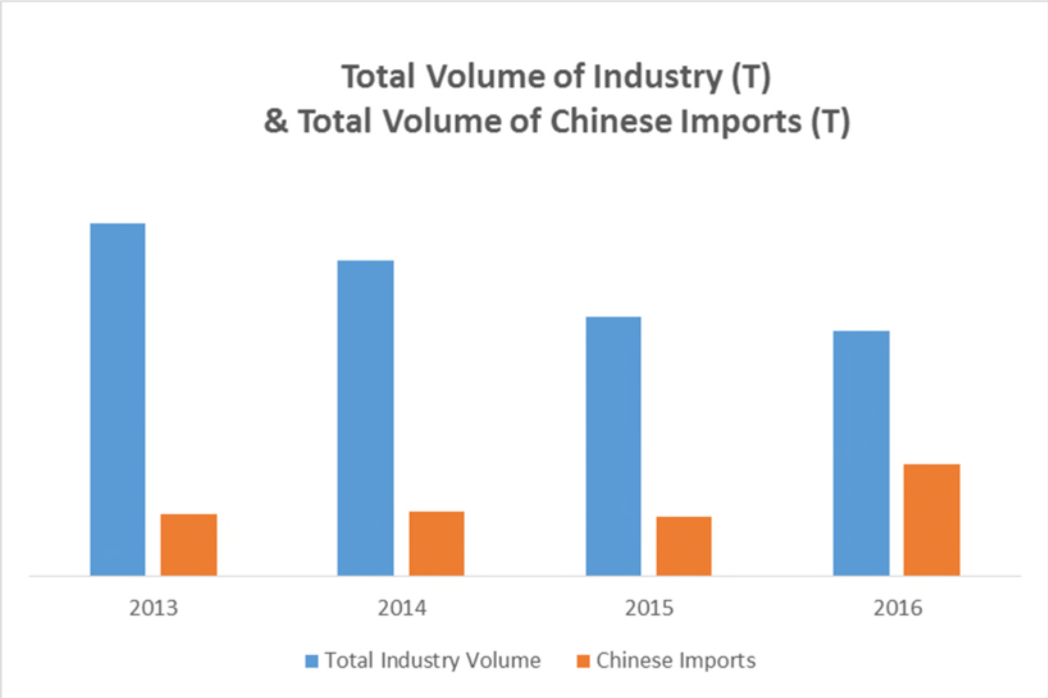

Figure 3: Total volume of Australian industry & volume of Chinese imports

Based on verified sales data of the Australian industry selling to the direct market and verified import data, the Commission has estimated the respective share of the total market for alloy round bar in Figure 4, below. Note that the Commission has also included the production figures of Moly-Cop in this analysis. Figure 4 shows that OneSteel'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 initial three years of the injury analysis period.

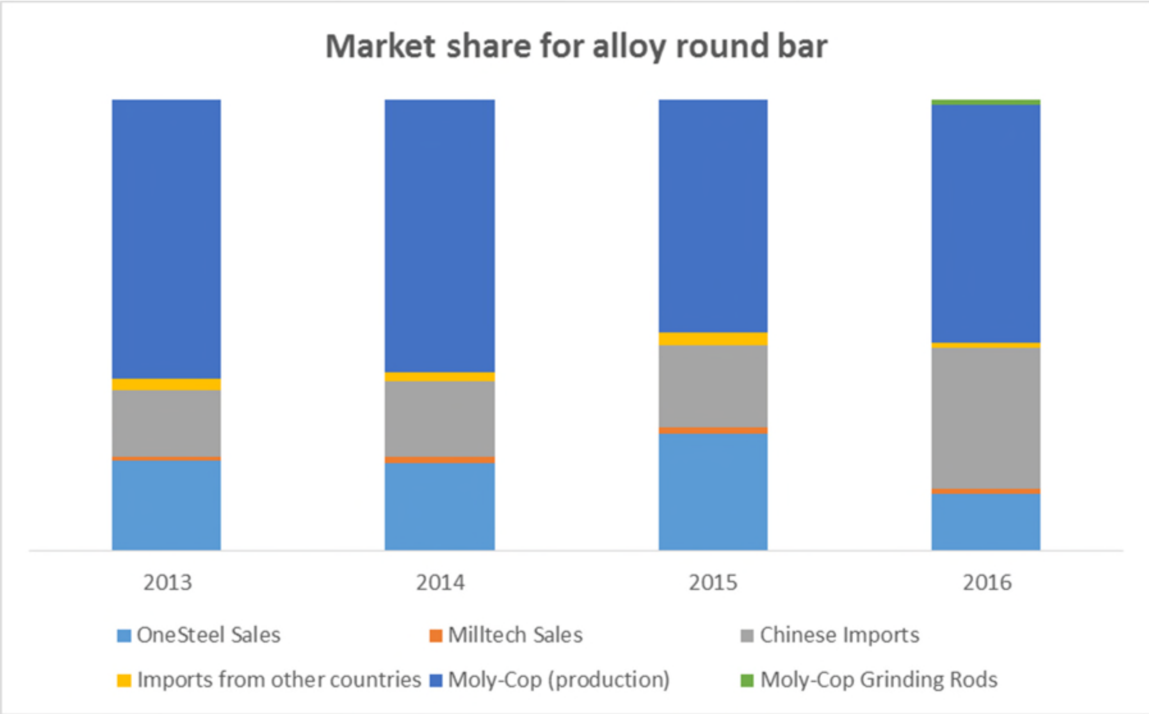

Figure 4: Share of alloy round bar market

In the SEF, the Commission noted that the chart relating to the size and share of the market was materially different from the market share chart that was depicted in the verification visit report for OneSteel.[40] During the course of the investigation the Commission noted some inconsistences 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 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.

[40] Refer to document 20 on the electronic public record for Investigation 384.

6 DUMPING INVESTIGATION

6.1 Finding

The Commissioner has found that:

- alloy round bar exported to Australia by Suzhou, Daye and uncooperative exporters during the investigation period was dumped; and
- the volume of dumped goods from China was not negligible.

The dumping margins are summarised in Table 2, below.[41]

Country	Exporter	Dumping Margin
China	Suzhou Suxin Special Steel Ct. Ltd (Suzhou)	35.3%
	Daye Special Steel Co. Ltd (Daye)	21.9%
	Uncooperative and all other exporters	73.7%

Table 2: Dumping margins

6.2 Introduction and legislative framework

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.

[41] As per ADN No. 2017/152, the investigation with respect to Yonggang was terminated.

The Commission verified the information provided by all three exporters. These exporter questionnaire responses were complete (noting the further data requested from Daye, as outlined below in section 6.8.1) and enabled the Commission to either conduct a verification visit or undertake desktop verification. 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 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 has used 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 Commissioner 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 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 construction[42] or third country sales.[43] 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).

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42 Subsection 269TAC(2)(c).

43 Subsection 269TAC(2)(d).

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 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.

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 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 24 November 2017

In the SEF the Commission considered the views expressed by OneSteel regarding the selection of a comparable cost benchmark. OneSteel referred to other investigations currently on foot with the Commission (investigations 416[44] and 418[45]) and submitted that the Commission should utilise comparable, domestic-based prices which are capable of adaption from those investigations. In the SEF, the Commission noted that it could not establish a reasonable method by which to extrapolate the data for the entire investigation period, and that this was important given fluctuations in steel prices from quarter to quarter.

In its submission of 24 November 2017, OneSteel refer to a previous example where the Commission had indexed a benchmark price to extrapolate future price movements.[46] OneSteel proposed that the Commission apply scrap price movements from one quarter of the investigation period from investigations 416 and 418 as the base for the index, and then adjust the benchmark costs by the average quarterly movements in the scrap price for the other quarters of the investigation period. OneSteel states in its submission that the steelmaking production process for Suzhou, the biggest exporter of alloy round bar during the investigation period, involves the use of scrap, and that scrap represents a significant certain percentage of the total CTMS.

The Commission revisited the verification of Suzhou and the cost data presented. The verified cost data indicated that the percentage of scrap utilised as a raw material in the process was not a significant part of the total CTMS. Rather, other raw materials including various types of ore formed the bulk of the cost of raw materials. The Commission did not consider OneSteel's proposed approach to be reasonable in these circumstances.

The Commission considered other alternative means by which to index the proposed benchmark. However, given the number of models produced by Suzhou and the variance in raw material inputs, the Commission considers that it is more appropriate to rely on the benchmark as outlined in section 6.7.3.

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

45 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.

46 Refer to document 41 on the electronic public record for Investigation 384.

6.7 Dumping assessment – Suzhou

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.[47]

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 Free on Board (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 selling, general and administrative (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

The normal value construction for Suzhou is attached under **Confidential Attachment 2**.

<u>Adjustments</u>

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9)[48] as follows:

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

48 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).

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

6.7.4 Dumping margin

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

6.8 Dumping assessment – Daye Special Steel

6.8.1 Verification

Daye provided a completed response to the Commission's exporter questionnaire, although ultimately the Commission requested further information regarding certain cost data. 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.[49]

At the time of publishing the SEF, the Commission calculated a dumping margin for Daye of 11.3 per cent. However, in the SEF the Commission noted that the verification of Daye was still on foot.

On 28 November 2017, having considered the further information and evidence provided, the Commission published a verification report for Daye and calculated a dumping margin of 33.0 per cent. Daye provided a submission in response to this verification report, the analysis of which is below.

6.8.2 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.

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 Daye's normal value as follows:

[49] Refer to document 55 on the electronic public record for Investigation 384.

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	Daye's actual verified costs to convert billet to alloy round bar.
SG&A expenses	Daye's actual verified SG&A costs (inclusive of transport and credit/bank costs).
Profit	Daye's profit on domestic sales which met the original OCOT test based on Daye's verified CTMS.

Table 5: Daye's normal value construction

The normal value construction for Daye is attached under **Confidential Attachment 3**.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9)[50] as follows:

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

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

6.8.4 Daye submission dated 5 December 2017[51]

Daye raised a number of points in response to the Commission's verification and dumping margin calculations. These are considered below.

Daye states that some models of the goods sold in the domestic market are high value due to particular authentications and customer approvals. It claims there are sufficient differences in these goods to exclude them from consideration as like goods. Daye stated that the domestic market segments for Daye are much more complex and sophisticated, and cannot be limited to the market segments defined in the Australian market.

In support of this claim, Daye provided information and evidence regarding certain steel grades which had attained authentication and certification by a range of different bodies.

50 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).

51 Refer to document 56 on the electronic public record for Investigation 384.

Daye concludes that the profit determined by the Commission in the construction of the normal value should be limited to a certain subset of the goods in the domestic market with certain standards, and excluding all others.

Notwithstanding the above point, Daye claims that as a result of benchmarking the cost of billet and alloys (due to the market situation finding), the CTMS has been uplifted. Daye claims that the profit added to the constructed normal value should be adjusted downwards by the same percentage that the CTMS has increased. Daye refers to a previous investigation[52] where this argument was made and which resulted in a downwards adjustment in the profit.

Finally, Daye states that there has been an error in the calculation of the conversion cost as part of the normal value. Daye notes that its production process consists of two methods – integrated and non-integrated – and that a portion of the labour and overhead costs must be attributed to the integrated part of its production. If accepted, this would result in a reduction of the conversion cost.

6.8.5 Commissioner's Response

The Commission understands that within the scope of alloy round bar there are many subsets and end uses. This is apparent both within the Australian market and in the Chinese domestic market. However, although certain grades may be subject to certain certification and authentication procedures, the goods are still classified as alloy round bar. Goods that attain separate certification or authentication are predominantly still produced in the same manner (with subtle alterations depending on the end use or classification), share a functional likeness with other alloy round bar grades, and are physically similar. The Commission acknowledges that Daye has a significant number of domestic models of the goods, and that certain models may receive additional treatment resulting in receiving certain classification or certification, or being priced at a much higher point than other models. However, the Commission determines that these treatments and certifications do not detract from the goods accurately being described as alloy round bar.

The Commission has considered the point regarding the calculation of profit for the purposes of subsection 269TAC(2)(c)(ii). The Commission is satisfied that the methodology employed in the verification report for Daye is consistent with subsection 45(2) of the Regulations which states that, in relation to the determination of profit:

> the Minister must, if reasonably practicable, work out the amount by using data relating to the production and sale of like goods by the exporter or producer of the goods in the ordinary course of trade.

With respect to the previous investigation referred to by Daye, deep drawn stainless steel sinks, the Commission has examined the dumping margin calculations for the cooperating exporters in that investigation. The Commission did not find a downwards adjustment to have been made to the profit determination. Accordingly, the Commission has made no change to the amount of profit included in the constructed normal value.
The Commission accepts Daye's argument that the conversion costs need to be revised. Daye has provided further evidence to the Commission regarding the overhead and

52 Investigation 238 into the alleged dumping of deep drawn stainless steel sinks exporter from China.

labour costs, and the Commission requested and received further evidence to confirm and verify how these costs should be divided between integrated and non-integrated production processes. As a result, the conversion percentage has been reduced.

6.8.6 Dumping margin

The Commission has calculated the dumping margin for Daye as 21.9 per cent.

6.9 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 of alloy round bar from China is 73.7 per cent.

6.10 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 under subsection 269TDA(3) in respect of China.

6.11 Conclusion

The Commissioner has found that:

- alloy round bar exported to Australia by Suzhou, Daye and uncooperative exporters during the investigation period was dumped; and
- the volumes of dumped goods from China were not negligible.

Dumping margins are summarised in table 7, below.

Country	Exporter	Dumping Margin
China	Suzhou Suxin Special Steel Ct. Ltd (Suzhou)	35.3%
	Daye Special Steel Co. Ltd (Daye)	21.9%
	Uncooperative and all other exporters	73.7%

Table 7: Dumping margins

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Finding

The Commissioner has found 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 7.7.3.

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

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

The Commission notes that no positive evidence has been presented to indicate that Moly-Cop has experienced injury as a result of the dumped alloy round bar.

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.

The Commission has examined the Australian market and the economic condition of the Australian industry from 1 July 2012 for the purposes of injury analysis. Where necessary, and for the purposes of this chapter, the Commission has consolidated data from Australian industry members.

The following analysis relies on publically available information, data from the ABF import database and verified sales and cost data provided by OneSteel, Milltech, importers and exporters. The supporting data with regard to the below analysis is contained in **Confidential Attachment 4 – Injury**.

7.2.1 OneSteel's injury claims

In its application, OneSteel claimed that the Australian industry has experienced material injury caused by alloy round bar being exported to Australia from China at dumped prices. OneSteel 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 and employment.

7.2.2 Milltech’s injury claims

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,[53] the Commission requested sales and cost data from other members of the 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.

7.2.3 Moly-Cop

The Commission requested that Moly-Cop provide information and evidence regarding injury it had experienced as a result of the imports of alloy round bar from China. This information was not provided prior to the publication of the SEF.

The Commission notes Moly-Cop’s submission of 4 September 2017[54] 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.

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

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

The Commission notes Moly-Cop's request for an extension to allow for clarity regarding the ACCC process. Moly-Cop informed the Commission on 17 November 2017 that the ACCC processes are ongoing and requested an extension to provide 'relevant information to assist [the Commission] with its injury analysis of the Australian industry manufacturing like goods'.[55]

Submissions in response to the SEF were originally due on 16 November 2017. On 17 November 2017 the Commission provided an extension to all interested parties to respond to the SEF.[56] Although the Commission has verified the production volumes of Moly-Cop during the investigation period, Moly-Cop has not provided information and evidence regarding injury it has experienced.

Accordingly, the Commission has based its injury assessment on available and verified evidence supplied by OneSteel and Milltech.

7.3 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.

7.4 Volume effects

7.4.1 Sales Volume

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

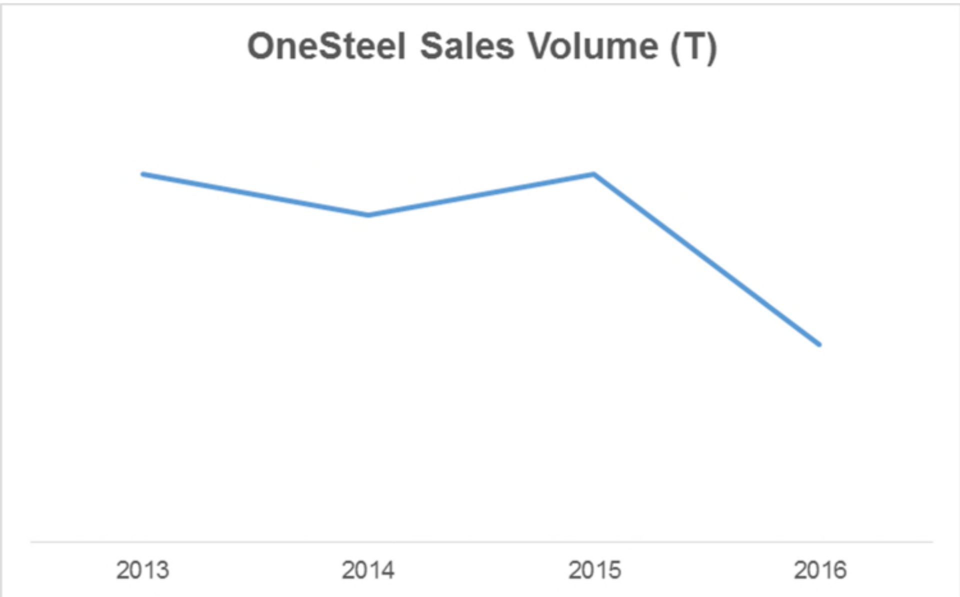

Figure 5: OneSteel domestic sales volume of alloy round bar

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[55] Refer to document 51 on the electronic public record for Investigation 384.

[56] Refer to document 52 on the electronic public record for Investigation 384.

Based on Figure 5, 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 6 indicates the trend of Milltech's domestic sales over the injury analysis period.

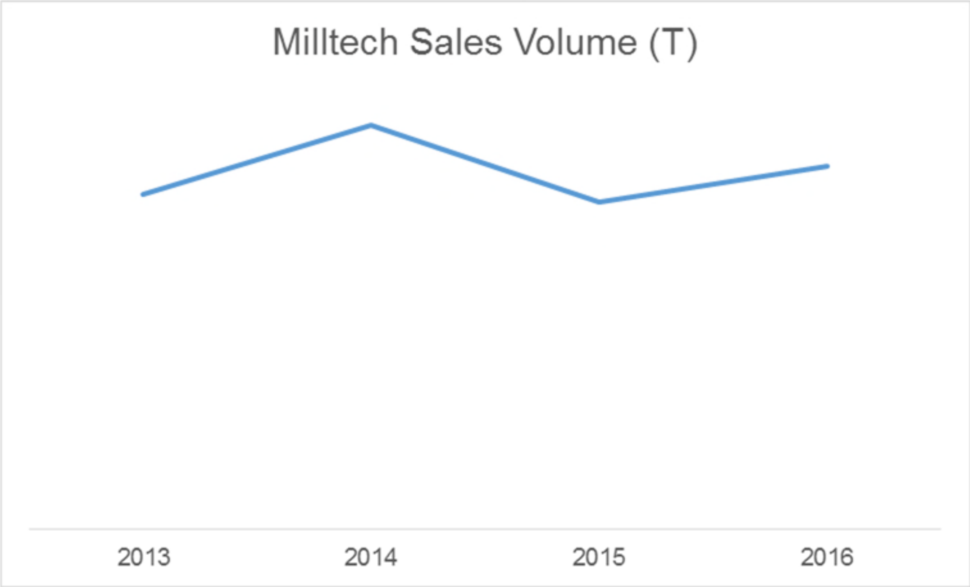

Figure 6: Milltech domestic sales volume of alloy round bar

Based on Figure 6, the Commission observes that although there have been fluctuations 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 use feed material purchased from OneSteel. With regard to these goods, the Commission has ensured no double-counting has occurred.

7.4.2 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 7.

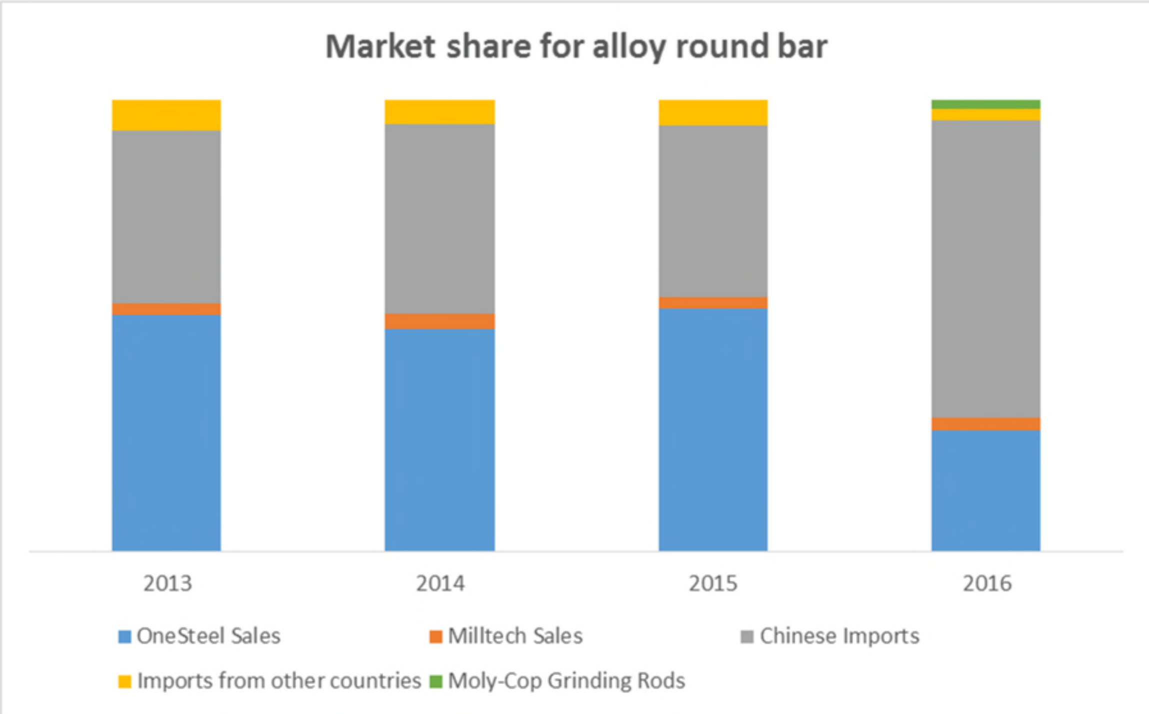

Figure 7: Total Australian market based on sales

Figure 7 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, and the level of imports from other countries (besides China) has remained consistent.

7.4.3 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.

7.5 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 8 charts the unit price and unit CTMS for alloy round bar sold by OneSteel over the course of the injury analysis period.

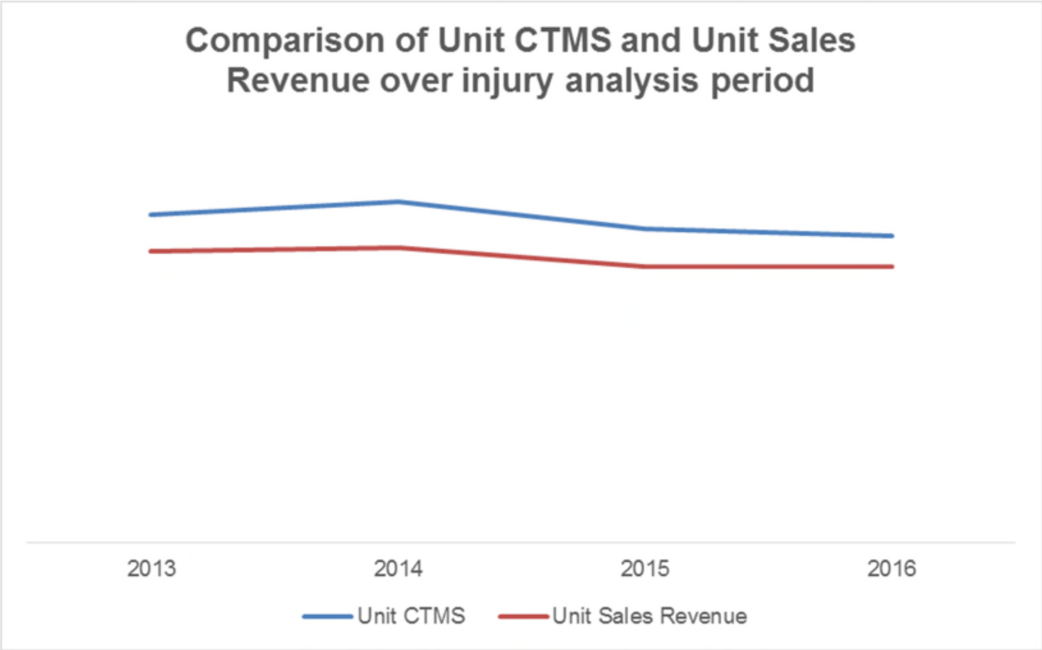

Figure 8: OneSteel unit selling price and unit cost to make and sell for alloy round bar

Figure 8 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 8 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 5.2.1 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 9 and 10, 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.

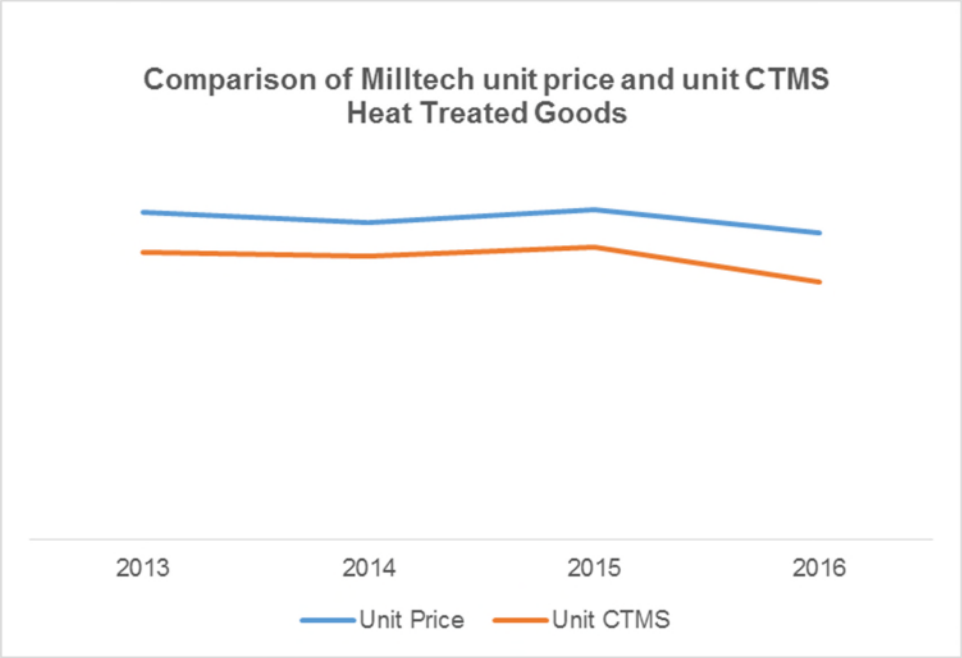

Figure 9: Milltech unit selling price and unit cost to make and sell for heat treated goods

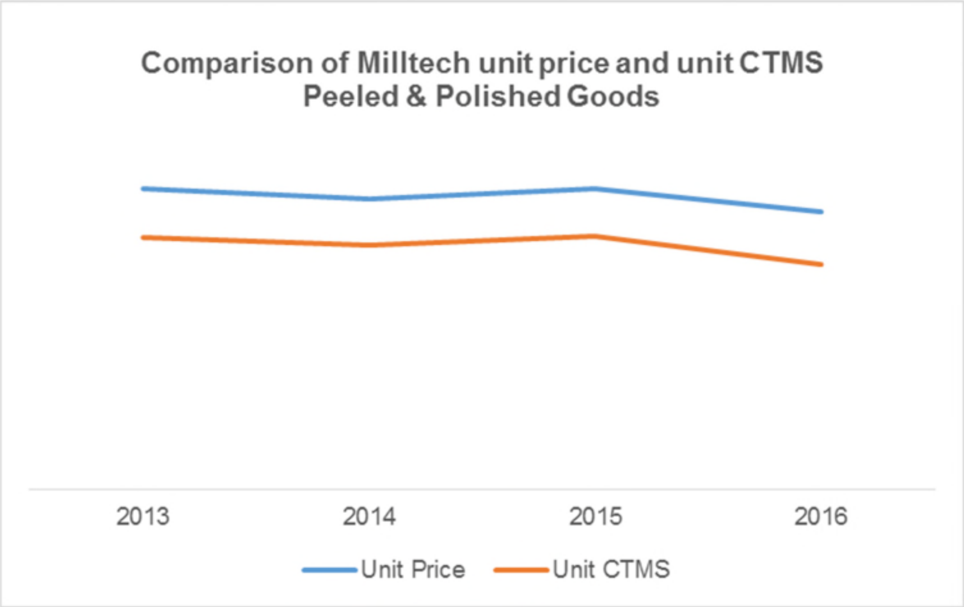

Figure 10: Milltech unit selling price and unit cost to make and sell for peeled & polished goods

Figures 9 and 10 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.

7.5.1 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.

7.6 Profits and profitability

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

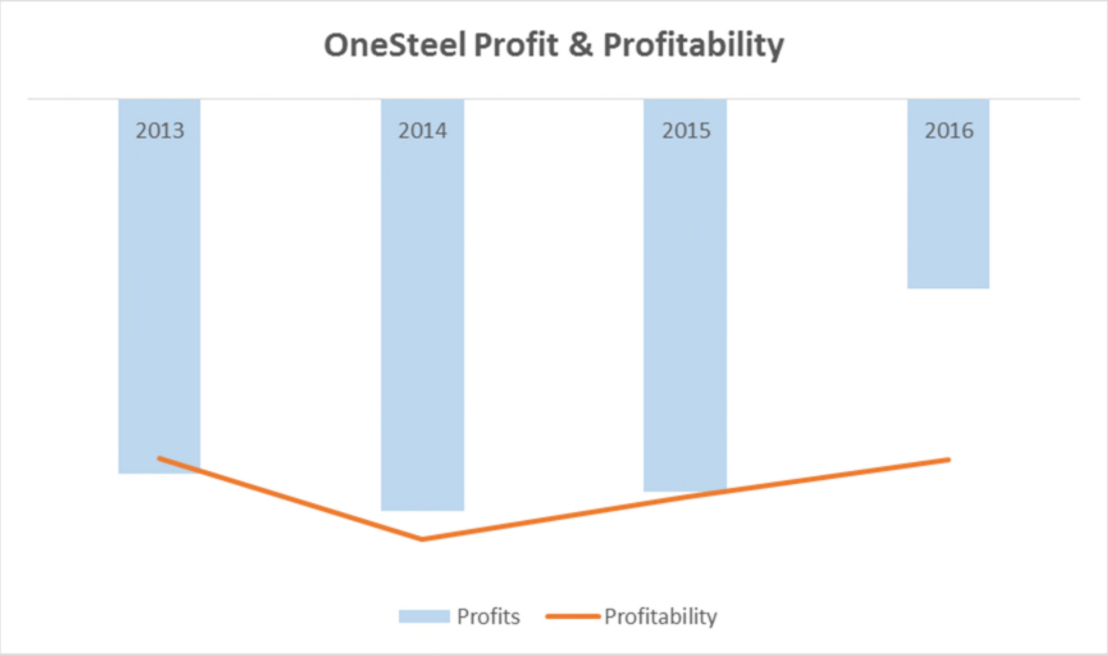

Figure 11: OneSteel profit & profitability over the injury analysis period

Figure 12, below, highlights the level of profit that Milltech has made on the sale of its alloy round bar goods, together with profitability.

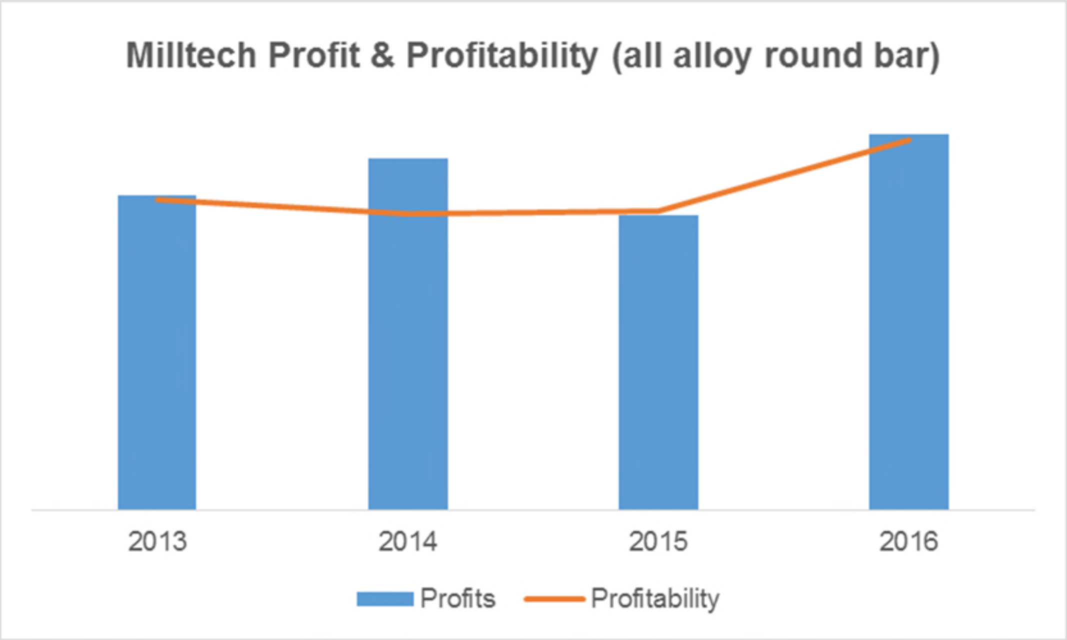

Figure 12: Milltech profit & profitability over the injury analysis period

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 11 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 reduction initiatives.

Figure 12 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 (it submitted) 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.

7.6.1 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.

7.7 Other economic factors

7.7.1 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 allocating 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.

7.7.2 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 did not participate in the investigation.

7.7.3 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.

7.8 Conclusion

The Commissioner has considered the injury experienced by OneSteel and Milltech. The Commissioner will now 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 Finding

As discussed in Chapter 7, the Commissioner considers that OneSteel and Milltech have experienced injury. The Commissioner has found that, while certain exports of alloy round bar from China were dumped and there has been some injury to parts of the Australian industry, the injury, if any, caused by dumping to the Australian industry as a whole during the investigation period was 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* (the Injury Direction).[57]

8.3 Approach to causation analysis

This chapter considers whether the 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 4.6 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.

In the *Swan Portland Cement* case,[58] 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 industry, whether the part be determined by geographic, market or other criteria.'[59] This is the normal practice of the Commission when undertaking an assessment of injury and causation, as described in the Manual.[60]

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

58 *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.

59 [1991] FCA 49 at [39].

60 Page 16 refers.

8.3.1 OneSteel submission dated 24 November 2017

OneSteel claimed that the Commissioner's approach in the SEF has ignored the existence of material injury to itself and Milltech, and that the approach taken by the Commission is not supported by the guidance provided by Lockhart J in *Swan Portland Cement*. OneSteel further stated that it is not open to the Commissioner to discount the material injury suffered by OneSteel and Milltech because he has not formed, or cannot form, a view with respect to whether or not Moly-Cop has experienced material injury in its own right.

Further, OneSteel referred to the case of *Re ICI Australia Operations Pty Ltd v Donald Fraser, the Anti-Dumping Authority and the Minister of State for Small Business and Customs*[61] where the Federal Court commented on material injury. OneSteel asserted that, based on the findings in this case, the Commission can only assess the 'ebb and flow of business' in the context of economic conditions 'uninfluenced by dumping'.

8.3.2 The Commission's response

As noted above, the publication of a notice under section 269TG requires the Minister to be satisfied that dumping has caused material injury to an Australian industry producing like goods. In the Commission's view, and consistent with *Swan Portland Cement*, this requires an assessment of <u>all</u> industry members producing like goods, and consideration of whether these industry members have been injured by the presence of dumped goods in the market <u>as a whole</u>.

The Commission has established that injury has been experienced by OneSteel and Milltech, however there is no evidence before it of injury having been experienced by Moly-Cop. The injury experienced by any of these parties needs to be considered in the context of the Australian industry as a whole; whether the injury experienced is *material* in that broader context is a question of degree. Accordingly, the Commission has not discounted the injury suffered by OneSteel and Milltech, but has considered that injury in a wider context than is contended for by OneSteel.

The passage from the Federal Court's judgment in *Re ICI Australia Operations* that OneSteel cited was discussing a 1990 Ministerial Direction. The more recent Injury Direction revokes that previous direction and notes that it "is intended to replace the previous guidance so far as it relates to material injury." However, the Court's comments on section 269TG in that discussion are still relevant. The Court noted:

> The Ministerial Direction cannot, and does not purport to, modify the Minister's power arising under s. 269TG. The preconditions to the exercise of that power are to be found in s. 269TG, not in the Ministerial Direction.

The Court went on to discuss the use of the expressions 'material' and 'material injury' in the anti-dumping legislation, noting that:

> In the practical application of that notion material injury will in most though not necessarily in all cases be injury which is greater than that likely to occur in the normal ebb and flow of business uninfluenced by dumping …

[61] [1992] FCA 120. Referred to in this report as *Re ICI Australia Operations*.

Similarly, the Injury Direction notes that:

> The injury must also be greater than that likely to occur in the normal ebb and flow of business.

The Commission has considered trends in the injury analysis period to determine if the injury to the Australian industry caused by dumping during the investigation period was more than that likely to occur in the normal ebb and flow of business uninfluenced by dumping. In the absence of a dumping investigation and a finding that dumping had occurred during the injury analysis period, the Commission is not able to find that those periods were influenced by dumping. Accordingly, in its injury analysis, the Commission has considered that those periods remain relevant for the purposes of considering the likely normal ebb and flow of business.

The Commission considers that this approach is consistent with both the comments in *Re ICI Australia Operations* and the Injury Direction, and is relevant to the determination about whether material injury was caused by dumping, as required by section 269TG.

In the SEF the Commission had regard to the Injury Direction, in noting that the injury experienced by OneSteel and Milltech was not more than the normal ebb and flow of business. Having considered the information and evidence verified during the investigation, and the submissions from interested parties both prior to and in response to the SEF, the Commission has re-assessed whether the injury suffered by the Australian industry caused by the dumping is material.

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 are 35.3 per cent for Suzhou, 21.9 per cent for Daye and 73.7 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.

The Commission has considered whether the dumped goods have caused material injury to the Australian industry below.

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 7.5.

The Commission has considered these claims below.

8.5.1 Price undercutting

<u>OneSteel</u>

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, Stemcor. The Commission established a delivered price for OneSteel for the investigation period. The Commission also calculated the comparable sales price for Stemcor based on verified data.

The Commission notes, as outlined above in section 5.2, that an aggregated analysis of all segments of the alloy around bar is not appropriate for certain injury factors. Due to the 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 95 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 (at Free Into Store, or FIS, terms) into the grinding media market below.

The Commission compared the selling prices for the grinding media market and the result is illustrated in Figure 13, with detailed analysis contained in **Confidential Attachment 5 – Price Undercutting**:

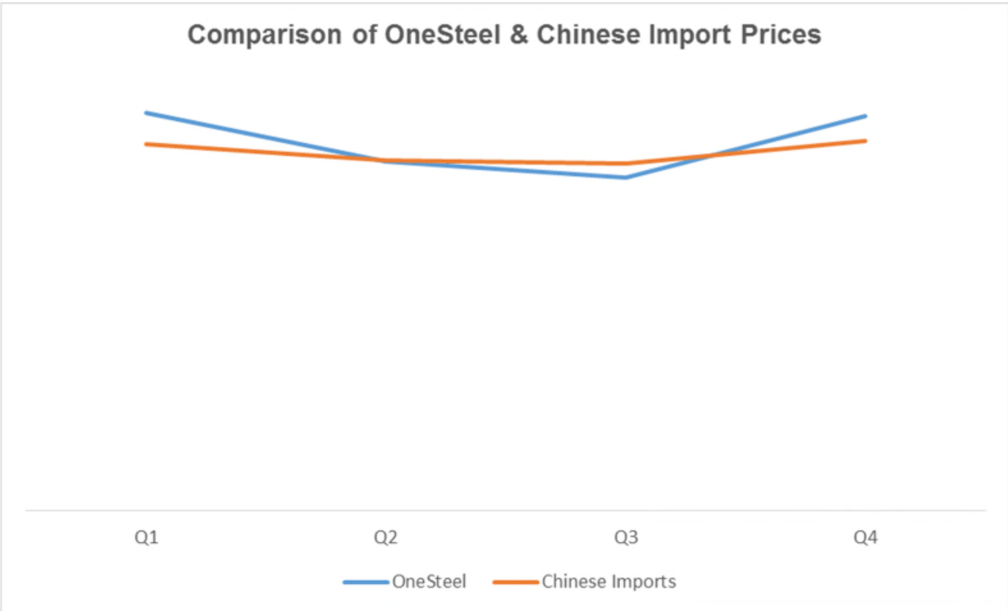

Figure 13: Comparison of OneSteel and Chinese Import Prices

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.

Customer Level

OneSteel provided a number of specific examples where it claimed, during a process of negotiation, its selling prices had been undercut due to dumped imports from China. 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 instance 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 the 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 6 – Price Undercutting examples (OneSteel)**.

<u>Milltech</u>

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.

Submission from Milltech dated 30 October 2017[62]

In response to SEF 384, Milltech provided a submission regarding the price undercutting examples contained in the data it supplied to the Commission. Milltech submitted that SEF 384 incorrectly stated that further evidence regarding the price undercutting examples was not provided, and referred to evidence that had been provided during the verification visit.

Commission's Response

The Commission acknowledges that Milltech had provided additional evidence during the verification visit in support of these price undercutting examples. This evidence was in the form of email correspondence with customers, documents outlining cancellation of orders, as well as diary notes. This further evidence is contained in **Confidential Attachment 7 – Price Undercutting examples (Milltech)**, and has been considered further in section 8.5.3.

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 already been considered in section 8.5.1 (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. It 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 it will seek other arrangements.

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

OneSteel submission dated 24 November 2017

In its submission OneSteel proposes that the full rate of dumping be taken to equate to the full impact of the consequential price effects of injury on the industry. OneSteel then calculated the value lost on the volume actually sold to its major customer in the grinding

62 Refer to document 49 on the electronic public record for Investigation 384.

bar market and highlights that, in its opinion, this is a material loss of value. OneSteel provided further calculations in support of this claim.

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 ranged 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 it generally sought to utilise (referred to earlier at section 5.2.1). Had the full value of the price model been achieved, the levels of undercutting would have been 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 (as shown in Figure 13). 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. The Commission notes that there are other causation factors also present (discussed from section 8.7.6 onwards), which impact on the materiality of the injury, if any, caused by the dumped goods.

In its submission of 24 November 2017, OneSteel sought to quantify the injury impact of the price depression and price suppression. The Commission notes that the information presented by OneSteel is based on the assumption that OneSteel would have been able to raise its prices in the grinding bar market by the full margin of dumping found for its chief competitor in that market, being the 35.3 per cent dumping margin for Suzhou.

The Commission notes that, in its submission, OneSteel does not provide an explanation or rationale for why it would have being able to raise its prices by 35.3 per cent. In its application, OneSteel stated that it has sought to maintain a price model based on an index. For the reasons outlined in **Confidential Attachment 9 – OneSteel pricing model** the Commission considers that the prices generated by this index are unaffected by the actual prices of imports of alloy round bar in Australia, and therefore the index is not affected by the dumping of the goods. The Commission notes that increasing selling prices by 35.3 per cent takes the proposed OneSteel selling price well above the maximum price generated by the pricing model for the period from January to September 2016 (i.e. 9 months of the investigation period).

The Commission considered the actual selling prices of OneSteel for sales of alloy round bar to Donhad in Newcastle, noting the majority of sales to Donhad were to Newcastle. As a result of negotiation between the parties, actual selling prices achieved were at a discount of between 6 to 10 per cent on the prices generated by the pricing model and sought by OneSteel. OneSteel argues that the final (reduced) price has been influenced by the competing prices of dumped goods. The Commission notes that the model price does not recover OneSteel's CTMS in any month of the period examined, and therefore does not consider it reasonable to uplift prices by 35.3 per cent (as proposed by OneSteel).

The Commission has taken the period in which the model prices have been undercut the most and established a percentage difference between the model price and actual selling prices of 10.1 per cent. The Commission considers that, in the absence of dumping, OneSteel would have continued to seek the prices which were generated by the model. Accordingly, the Commission then increased the selling prices of OneSteel by this percentage for the investigation period to estimate the injury value of these lower sales prices. Using this methodology, the total value of revenue lost by OneSteel as a percentage of its total revenue for all sales of alloy round bar during the investigation period was determined.

The analysis regarding this issue is contained in **Confidential Attachment 10 – OneSteel injury value.**

As noted above in section 7.6, Milltech provided evidence of cost reduction programs it had undertaken which would have led to greater profits during the investigation period were it not for the impact of the dumped alloy round bar. The Commission considered the level of cost reduction made by Milltech during the investigation period, based on its verified CTMS figures for both heat-treated and peeled and polished goods. The Commission then calculated the level of profit that would have been made if the selling prices of the goods had, in the absence of dumping, remained at the average level of the first three years of the injury analysis period (noting that the selling prices remained consistent during these years before declining during the investigation period). Using this methodology, the total value of revenue lost by Milltech as a percentage of its total revenue for all sales of alloy round bar during the investigation period was determined. Note that in undertaking this analysis, the Commission also included the specific examples of lost sales provided by Milltech, and the additional revenue this would have generated.

The analysis regarding this issue is contained in **Confidential Attachment 11 – Milltech Injury Value**.

Using the above methodologies, the revenue lost due to the price effects of the dumped goods by OneSteel and Milltech as a proportion of the total Australian industry (that is, weighted by reference to the respective share of production volume shown in Figure 1) was less than 2 per cent. The Commission does not consider this price effect injury to be material in the context of the Australian industry as a whole.

The analysis regarding this issue is contained in **Confidential Attachment 12 - cumulative injury**.

8.6 Volume effects

As discussed in section 7.4 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.

Figure 7, above, indicates the overall trend in the sales of alloy round bar in the Australian market. 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;
- the volume of dumped imports represented 23 per cent of the total volume of the goods sold in the market *and* the goods produced by Moly-Cop; and
- the volume of imports from China increased from the 12 months prior to the investigation period by 86 per cent.

8.6.1 Lost Sales

In its application, OneSteel noted a number of occasions where it had lost sales due to Chinese imports 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 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 13 – 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.

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
- OneSteel'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.

OneSteel submission dated 24 November 2017

OneSteel submitted that the assessments concerning the price effects of the dumped goods on the industry survive irrespective of the Commission's conclusions concerning other causation factors. OneSteel submitted that the Commission's findings regarding the other factors only displace claims of volume injury, but do not excuse the Commissioner from assessing the materiality of price effects injury on the volumes that had been sold during the investigation period.

The Commission agrees that both price effects and volume effects may be considered separately, and that causation factors may be applicable to only one type of injury effect, or both. The discussion of these other causation factors proceeds below on that basis.

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 1 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 Donhad was previously 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. As noted above, the Commission verified production volumes of alloy round bar from Moly-Cop, and both production and sales volumes from Donhad. 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. 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. The Commission notes that this issue relates to goods that are not like goods, and has not considered 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 associated methodology, and does not consider this to have contributed to the 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 the data obtained from the ABF import database established 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 14 – Donhad Presentation**, outlining both a technical and historical view of the alloy round bar it had purchased 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 15 – 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".

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.

Copies of the relevant test and investigation reports, together with the confidential details regarding the quality issues noted above, are attached at **Confidential Attachment 16 – 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 8 metre 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 17 – 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.

<u>OneSteel response</u>

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 6**.

ii. In a submission dated 23 May 2017,[63] 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.

63 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,[64] 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 were not important. Donhad stated that there were a number of grades manufactured by OneSteel 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 above.

Submissions from OneSteel dated 24 November 2017 and 8 January 2018

On 24 November 2017, OneSteel claimed that it was denied procedural fairness and natural justice with regard to Donhad's claims in respect of the quality issues outlined above. OneSteel provided a timeline regarding submissions received by the Commission from 6 February 2017, meetings held with interested parties and minutes regarding those meetings, and concludes by stating that it was not permitted an opportunity to form a reasonable understanding of the substance of the claims.

On 8 January 2018, OneSteel reiterated that it has been denied natural justice, in that it has not been made aware of the information Donhad has provided in support of Donhad's claims. OneSteel provide further examples of this, and requested further confidential and limited disclosure of evidence which is not confidential between Donhad and OneSteel.

The Commission notes as follows:

- For the aspects of its submissions that were confidential, Donhad provided a non-confidential summary of the information. As required by subsection 269ZJ(2), this summary contained sufficient detail to allow a reasonable understanding of the substance of the information without breaching confidentiality and was included in the public record.

- Further information was gathered during a verification visit to Donhad's premises, including verbal information. A record of the visit, as well as the additional verbal information provided by Donhad (to the extent that the information was not confidential), was made in a file note that was published on the public record, as required by subsection 269ZJ(4).

- Some of the information that Donhad claimed to be confidential was confidential because it contained information that was proprietary to OneSteel. This was explained to OneSteel by the Commission via email on 8 May 2017. In addition to the information already publicly available, this explanation provided further detail to enable OneSteel to understand the substance of the information.

The Commission is satisfied that the requirements under section 269ZJ have been met.

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

In its submission of 24 November 2017, OneSteel has further commented on the following issues relating to the production process and quality:

- Vacuum degassing;
- Reduction ratio;
- In-line ultrasonic testing; and
- Induction heating.

OneSteel has raised the following points regarding the above issues:

- Although OneSteel does not operate a vacuum degassing plant, it utilises an alternative hydrogen diffusion process that has been tested and is proven to lower hydrogen in the finished steel product. The quality of the steel is not a function of the dissolved gases in the liquid steel, but rather several different processes and steps. OneSteel states that Donhad has exaggerated the importance of vacuum degassing in its decision to purchase the Chinese product.

- The importance of the reduction ratio issue has been exaggerated, and represents an overly simplistic view of steel manufacturing and steel quality. Control of grain size is an important aspect of steel manufacturing, but is one aspect that is to be considered with many other factors and processing steps (including also the timing of those steps).

- In-line ultrasonic testing provides no guarantee of steel integrity, is not required for grinding bar (given it is not intended for aerospace or automotive applications) and is not benchmark practice. OneSteel states that Donhad has exaggerated the importance of this process in its decision to purchase the Chinese product.

- Induction heating operations can cause stresses in the steel when grinding bars are reheated, an issue which is not limited to OneSteel alone.

- OneSteel notes that the above issues did not prevent Donhad from continuing to purchase the goods from OneSteel, both during and after the investigation period.

Commission's response

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 acknowledges the concerns raised by OneSteel, namely that certain factors have been exaggerated by Donhad. The Commission has been presented with contrasting opinions regarding the importance of certain production processes and steps, and the effect they have on the quality of the final alloy round bar product. Both Donhad and OneSteel have provided reasoning in support of their claims, noting the differences in production processes and the supposed importance of these differences.

The Commission notes, however, that OneSteel's submission does not address the following quality concerns raised by Donhad:

i. The multiple incidents in which there were breakages/explosions of the grinding balls manufactured from the OneSteel product; and
ii. The drop tests performed by Donhad comparing the performance of grinding balls manufactured from the OneSteel product with grinding balls manufactured from the imported product.

The Commission considers that these specific incidents and the results of the tests performed were the key driver in Donhad's decision to import the Chinese product as a replacement for the specific grade previously supplied by OneSteel and for which the quality incidents had occurred.

Donhad stated that it made the decision to cease purchasing this grade from OneSteel in late November 2015, and the Commission confirmed from OneSteel's sales data that this diameter of alloy round bar was not sold to Donhad after December 2015. The lost sales volume experienced by OneSteel during the investigation period relating to this particular grade/diameter represented over 60 per cent of its total lost sales volume when comparing sales during the investigation period to sales during the preceding 12 months. The Commission considers the loss of this volume to have been caused by the quality issues rather than the dumped goods.

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 18 – value proposition**. The Commission observed that in setting out terms for offer, OneSteel required minimum volume thresholds to be met, with no apparent 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 own 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 19 - termination clause**.

Donhad explained that in purchasing the imported product from its importer, 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.

Submission from OneSteel dated 24 November 2017

OneSteel states that if there is no evidence that Donhad placed, and Stemcor accepted, consistently smaller orders than those placed on OneSteel, this is another example of Donhad exaggerating the impact of a factor other than price causing Donhad to consider other sources of supply.

OneSteel further states that there is nothing unreasonable or uncommercial in requiring a minimum order volume when making specialised single customer steel grades, and is a requirement due to certain constraints placed on steelmakers when making high quality special steels. OneSteel states that it would expect the supply of a customer specific grade from China to be subject to similar logistical and economic constraints.

Commission's Response

The Commission accepts that it is typical practice for OneSteel, and other steel manufacturers, to consider their production processes and how to optimise efficiency. Part of this may include the volumes ordered by customers and how to best meet orders while maintaining the efficiency of their operations. However, the evidence presented by Donhad indicates that during the course of negotiations with OneSteel, commitments to minimum volumes were requested by OneSteel. Whether these commitments were entered into or not does not detract from them being part of the negotiations between the parties.

Donhad claimed that in its negotiation for purchases of the imported alloy round bar from China, a commitment to minimum volumes was not required. The Commission confirmed this point with the major importer of alloy round bar for the grinding media market, Stemcor. The Commission is of the view that this issue of a commitment to volume thresholds is a factor that Donhad would have considered in its decision making when purchasing the goods.

8.7.8 Development of New Grade

In the SEF the Commission explained that Donhad had developed a new grade of grinding ball with claimed superior properties. Detailed information regarding this grade was provided, and is attached at **Confidential Attachment 20 – new grade**. Donhad explained that this new grade was designed to supersede an existing grade of grinding ball, and that in the 2016 calendar year it commenced transitioning customers to the new grade. The SEF further explained that due to specific production requirements Donhad had only been able to source this product from one exporter in China, and Donhad provided correspondence confirming that certain manufacturers of alloy round bar in China had been considered and excluded as potential suppliers. This information is attached at **Confidential Attachment 21 – excluded suppliers**.

At the time of publishing the SEF the Commission was of the view that Donhad had engaged with OneSteel to supply a trial quantity of this product, which OneSteel was unable to do. For this reason, Donhad continued to source the alloy round bar for this new grade from China.

OneSteel submission dated 24 November 2017

OneSteel provided evidence that it was only approached by Donhad regarding this new grade in a meeting on 16 March 2017 (i.e. following the investigation period). OneSteel notes that on 23 March 2017 it had suggested amendments to the chemical composition, which Donhad stated it could not accept. On 3 April 2017, Donhad then approached OneSteel with a revised specification and queried whether these specifications could be met. After confirmation that these specifications could be met, Donhad sent OneSteel a trial charter (on 18 April 2017) to which OneSteel responded on 10 August 2017 with further questions. OneSteel claims that no further work or agreement regarding this trial charter has taken place.

In its submission OneSteel notes the following three points:

i. that the Commissioner appears to be suggesting an exception to the conclusion that "the locally produced alloy round bar to be like to the imported alloy round bar" as noted earlier in the SEF;

ii. that even if the Commissioner accepted the new grade theory, the Commissioner was attributing conditions in the market from outside the investigation period to the causation analysis during the investigation period; and

iii. that anything less than a finding that the new grade was the sole cause of injury would place the Commissioner in breach of the Injury Direction, which provides that dumping need not be the sole cause of injury to the industry.

Donhad submission dated 22 December 2017

Donhad has provided evidence that the development of this grade commenced as far back as 2009 and 2010, with orders for the first iteration of the new grade placed with Chinese suppliers around that time.

Donhad explained that it did not approach OneSteel during the development phase for this grade due to the commercial relationship between OneSteel and Moly-Cop, the latter being one of the key competitors of Donhad in the grinding media market. However, following the difficulties experienced with Chinese suppliers manufacturing the product and the risk of supply for this grade not being diversified, Donhad elected to approach OneSteel to gauge its ability to manufacture this product.

Commission's response

The Commission has considered the points raised and evidence provided by interested parties in response to the SEF, and has revised its understanding of the facts with respect to the development of this new grade. Both Donhad and OneSteel agree that OneSteel was only approached regarding this new grade after the conclusion of the investigation period.

The Commission's understanding of the facts from March 2017 aligns with the views of both parties – that OneSteel was not able to meet the original Donhad specification, but with certain amendments to the chemical composition OneSteel stated that it could manufacture the product. The trial process discussed between the parties has not taken place.

The Commission now concludes that the volume of sales lost during the investigation period was not due to OneSteel's inability to manufacture this grade; rather, the volume of sales lost regarding this specific grade is due to Donhad's original decision to develop this grade with Chinese suppliers. The Commission considers that the primary consideration of Donhad in this decision was the commercial relationship between other members of the Australian industry, and the need for Donhad to protect its proprietary information.

OneSteel noted that its sales of the existing grade have increased since the conclusion of the investigation, and claims that this supports a conclusion that the existence of the new grade is not the determinative factor in Donhad's decision to purchase Chinese imports but rather that it is price. However, as noted above, Donhad has noted the need to diversify its supply source and minimise the risk of a supply shortage. In those circumstances it has reverted back to OneSteel and the original grade in order to meet the demand of its own customers.

Commission's assessment

To address the three specific points raised by OneSteel, the Commission notes that:

i. the SEF did not intend to suggest an exception to the goods analysis;

ii. the Commission has revised its understanding of the facts and has not applied information from beyond the investigation period to the causative analysis during the investigation period; and

iii. the Commission has considered the consequential impact of the dumped goods on those sales of the existing grade to Donhad during the investigation period, as part of the discussion regarding lost profits in section 8.5.3, above.

The Commission accepts that increases in the volume of imports of the new grade by Donhad will result in a corresponding decline in OneSteel's sales of its existing grade. As noted in the SEF, approximately 30 per cent of the lost sales volume experienced by OneSteel during the investigation period was in relation to the grade that Donhad has sought to replace with its new product. Accordingly, the Commission has concluded that these lost sales were a result of factors which were not connected with dumping.

Donhad has further explained that due to supply difficulties from its overseas suppliers, it has had to revert to obtaining some supply from OneSteel following the investigation period in purchasing the existing grade. The Commission accepts the commercial rationale for these decisions and the fluctuations experienced by OneSteel in its sales volume.

The analysis regarding the lost sales volume claimed by OneSteel and Milltech is contained in **Confidential Attachment 22 – lost sales and causation**.

8.8 Conclusion

The Commissioner has found that the dumped goods have caused some price and volume injury to OneSteel and price injury to Milltech.

However, a significant portion of the injury experienced by OneSteel in the direct market is as a result of changes in the purchasing behaviour of its key customer, Donhad, in response to quality concerns and normal commercial behaviours. This injury has not been caused by the dumped goods.

The Commissioner makes no finding concerning the impact of the dumped goods on Moly-Cop.

In order to quantify the injury that has been experienced by OneSteel and Milltech in the context of the Australian industry as a whole, the Commission has had regard to the relative share of production set out in Figure 1 and has extrapolated the injury accordingly.

The Commission has determined that:

- with regard to price effects, the cumulative injury experienced represents less than 2 per cent of the Australian industry;
- with regards to volume effects, the lost sales volume caused by dumped alloy round bar represents less than 2 per cent of the Australian industry; and
- when considering these injury effects, together with the other forms of injury found in Chapter 7, the Commission concludes that the injury, if any, that has been caused by dumped goods is negligible.

9 NON-INJURIOUS PRICE

9.1 The Commission's assessment

Should anti-dumping measures be imposed by the Parliamentary Secretary, the level of interim dumping duty cannot exceed the margin of dumping. The Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if the non-injurious price (NIP) is less than the normal value of the goods. This requirement is commonly referred to as the 'lesser duty rule'.

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 unsuppressed selling price (USP).

In the SEF, the Commission proposed determining the NIP by first calculating a USP based on the selling prices of the Australian industry members for the period from 1 October 2012 to 30 September 2013. The Commission then deducted verified importation costs to calculate the NIP on a FOB basis.

In a submission dated 24 November 2017, OneSteel stated that it does not support the proposed approach to calculating the NIP, stating any reduction in the dumping duty rates by any amount less than the full rate of dumping will continue to impact the Australian industry and exporters of un-dumped goods. OneSteel states that the methodology used by the Commission in the proposed NIP is incorrect and that the Commission should recommend to the Parliamentary Secretary that it is not desirable to fix a lesser rate of interim dumping duty.

The Commission notes that pursuant to subsection 8(5BAA) of the *Customs Tariff (Anti-Dumping) Act 1975*, the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. Those circumstances includes where the normal value was not able to be ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii). As noted above in section 6.5, the Commission has identified a market situation in China such that sales in that market are not suitable for use in determining the normal value.

The Commissioner considers that the obligation to consider the lesser duty rule is not required. Accordingly, the Commission considers it is not necessary to calculate a NIP in these circumstances.

9.2 Finding

As the Commissioner has determined that the obligation to consider the lesser duty rule is not required, the Commission has not considered the selection of an appropriate USP and NIP in further detail.

10 CONCLUSION

Under subsection 269TDA(13), if the Commissioner is satisfied that the injury, if any, to the Australian industry caused by dumped goods is negligible, the Commissioner must terminate the investigation so far as it relates to that country.

The Commissioner is satisfied that the goods exported by all exporters (other than by Yonggang) were dumped, and that the injury, if any, to the Australian industry caused by those dumped goods is negligible.

Therefore the Commissioner must terminate the investigation in relation to China.

11 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Structure of Australian industry
Confidential Attachment 2	Suzhou – constructed normal value
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Confidential Attachment 5	Price Undercutting
Confidential Attachment 6	Price undercutting examples - OneSteel
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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)".[65] 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:

- whether the prices are artificially low; or

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

- 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.[66]

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:

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66 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%.[67] 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.[68] [69] Other sources losses at around RMB 100 billon, making 2015 the worst year on record.[70] Notable Chinese steel producers to record losses during the inquiry period include Baosteel, Wuhan Iron and Steel and Anshan Iron and Steel.[71]

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.[72] [73] 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.

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

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67 OECD, 2017, Steel market developments, Q2 2017, p 8. OECD, 2016. Recent market developments in the global steel industry, p6. CEPII, 2016, China's 13th Five Year Plan: In Pursuit of a Moderately Prosperous Society, CEPII 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.

68 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.

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

70 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

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

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

73 Duke, 2016, p 24 & 34.

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.[74]

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 to150 million tonnes by 2020, via the banning of new steel projects and elimination of 'zombie mills'.[75] 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.[76] 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.[77]

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 Tangshan and Chengde plants, and relocate capacity by building a new plant under the GOC's 'reduced capacity swap' principle.[78]

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

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

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

76 Duke, 2016, p29.

77 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.

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

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.[79] 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.[80]

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.[81]

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.[82] 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.[83] 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.[84] The challenges posed by these issues is also evident in commentary by the CISA which 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.[85]

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.

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79 Platts, 2016. Global Market Outlook, Steel Business Briefing. April 2016 p16.
80 Duke, 2016, p38.
81 Platts, 2016. Global Market Outlook, Steel Business Briefing. January 2016 p14.
82 Liu. H & Song. L, 2016, p357.
83 Platts, 2016. Global Market Outlook, Steel Business Briefing. June 2016 p11.
84 Platts, 2016. Global Market Outlook, Steel Business Briefing. May 2016 p13.
85 Platts, 2016. Global Market Outlook, Steel Business Briefing. March 2016 p15.

- 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.[86] [87] Some estimates are that SOE production account for as high as 60% of total steel production.[88] It is the Commissions 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.[89]

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 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.[90]

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

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86 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.

87 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.

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

89 Liu. H & Song. L, 2016, p348.

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

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.[91]

- Notice of Several Opinions on Curbing Overcapacities and Redundant Constructions in Certain Industries and Guiding the Healthy Development of Industries (2009).
- Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013).
- 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.

[91] These directives are targeted at multiple industries including the Chinese steel industry.

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)[92]

- 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.
- 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-

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

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.[93] Similar programs previous identified by the Commission's countervailing investigations concerning the Chinese steel industry are listed below.[94]

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
- 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

93 Duke, 2016, p26.

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

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%.[95] 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.

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.

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