



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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*Customs Act 1901 Part XVB*

**CONSIDERATION REPORT  
NO. 466**

**APPLICATION FOR A DUMPING DUTY NOTICE**

in relation to certain railway wheels exported to Australia from  
the People's Republic of China and France

and

**APPLICATION FOR A COUNTERVAILING DUTY NOTICE**

in relation to certain railway wheels  
exported to Australia from the People's Republic of China

Submitted by Commonwealth Steel Company Pty Ltd

12 April 2018

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## ABBREVIATIONS

Abbreviation	Full reference
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
the Act	<i>Customs Act 1901</i>
the applicant	Commonwealth Steel Company Pty Ltd, or Comsteel
Assistant Minister	the Assistant Minister for Science, Jobs and Innovation and the Parliamentary Secretary to the Minister for Jobs and Innovation <sup>1</sup>
AUD	Australian Dollar
BHP	BHP Billiton Ltd
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
EAF	electric arc furnace
FMG	Fortescue Mining Group
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)
injury analysis period	the period from 1 January 2014
investigation period	the period 1 January to 31 December 2017
Maanshan	Maanshan Iron & Steel Company Limited
MST	Masteel Shanghai Trading
REP 322	<i>Anti-Dumping Commission Report No. 322</i>
REP 331	<i>Anti-Dumping Commission Report No. 331</i>
RIC	rod in coil
Rio Tinto	Rio Tinto Ltd

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<sup>1</sup> 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 Assistant Minister for Science, Jobs and Innovation.

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ROI	return on investment
Roy Hill	Roy Hill Holdings Pty Ltd
SG&A	selling, general and administrative
the subject countries	collectively, France and China
VALDUNES	MG-VALDUNES S.A.S.
WA	Western Australia

## 1 FINDINGS AND RECOMMENDATIONS

This report provides the result of the consideration by the Anti-Dumping Commission (the Commission) of an application under subsection 269TB(1)<sup>2</sup> of the *Customs Act 1901* (the Act)<sup>3</sup> by Commonwealth Steel Company Pty Ltd (Comsteel, or the applicant) for the publication of a dumping duty notice in respect of certain railway wheels (the goods) exported to Australia from the People's Republic of China (China) and France, and a countervailing duty notice in respect of the goods exported from China.

Comsteel alleges that the Australian industry producing railway wheels has suffered material injury caused by railway wheels exported to Australia from China at dumped and subsidised prices and from France at dumped prices.

### 1.1 Findings

In accordance with subsection 269TC(1), the Commission has examined the application and is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (as set out in section 2.2 of this report);
- there is an Australian industry in respect of like goods (as set out in section 2.4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods the subject of the application (as set out in chapters 3, 4, 5 and 6 of this report).

### 1.2 Recommendations

Based on the above findings, the Commission recommends that the Commissioner of the Anti-Dumping Commission (Commissioner) decide not to reject the application and initiate an investigation to determine whether a dumping duty notice and a countervailing duty notice should be published.

The Commission further recommends that:

- exports to Australia during the period 1 January 2017 to 31 December 2017 be examined for dumping and the receipt of countervailable subsidies; and
- details of the Australian market from 1 January 2014 be examined for injury analysis purposes.

If the Commissioner agrees with these recommendations, the Commissioner must give public notice of the decision in accordance with the requirements set out in subsection 269TC(4).<sup>4</sup>

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<sup>2</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

<sup>3</sup> Unless otherwise specified, all legislative references in this report are to the *Customs Act 1901*.

<sup>4</sup> The proposed investigation period aligns with the Chinese financial year for the purpose of the subsidy investigation, avoiding an overlapping part period (in this instance, the most recently completed quarter ending 31 March 2018); [Dumping and Subsidy Manual](#), page 83 refers.

## 2 THE APPLICATION AND THE AUSTRALIAN INDUSTRY

### 2.1 Lodgement of the application

#### 2.1.1 Legislative framework

The legislative framework that underpins the making of an application and the Commission's consideration of an application is contained in Divisions 1 and 2 of Part XVB of the Act. The procedures for lodging an application are set out in section 269TB. The procedures and timeframes for the Commissioner's consideration of the application are set out in section 269TC.

#### 2.1.2 The Commissioner's timeframe

Event	Date	Details
Application lodged & received by the Commissioner under subsections 269TB(1) and (5)	5 March 2018	The Commission received an application from Comsteel alleging that the Australian industry has suffered material injury caused by certain railway wheels that have been imported into Australia from France at dumped prices and from China at dumped and subsidised prices.
	20 March 2018	The Commission notified Comsteel that the application contained certain important deficiencies, which, if left unaddressed, created doubt on the reasonableness of the grounds for the publication of a dumping duty notice and a countervailing duty notice.
Applicant provided further information in support of the application under subsection 269TC(2A)	23 March 2018	The applicant provided further information and data in support of its application without having been requested to do so (as provided in subsection 269TC(2A)). This provision of further information and data restarted the 20 day period for consideration of the application and the application was taken to have been lodged and received from the date this information was provided.
Consideration decision due under section 269TC(1)	12 April 2018	The Commissioner shall decide whether to reject or not reject the application within 20 days after the applicant provided further information.

Table 1: Timeline of application assessment

### 2.2 Compliance with subsection 269TB(4)

#### 2.2.1 Finding

Based on the information submitted by the applicant, the Commission considers that the application complies with subsection 269TB(4).

## 2.2.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that the application complies with subsection 269TB(4).

## 2.2.3 The Commission's assessment

The table below summarises the Commission's assessment of compliance with subsection 269TB(4).

<b>Requirement for the application</b>	<b>Details</b>
Lodged in writing under subsection 269TB(4)(a)	The applicant lodged, in writing, confidential and non-confidential versions of the application. The non-confidential version of the application can be found on the electronic public record on the Commission website ( <a href="http://www.adcommission.gov.au">www.adcommission.gov.au</a> ).
Lodged in an approved form under subsection 269TB(4)(b)	The application is in the approved form (B108) for the purpose of making an application under subsection 269TB(1).
Contains such information as the form requires under subsection 269TB(4)(c)	The applicant provided: <ul style="list-style-type: none"> <li>• a completed declaration;</li> <li>• answers to all questions that were required to be answered by the applicant;</li> <li>• completed appendices; and</li> <li>• sufficient detail in the non-confidential version of the application to enable a reasonable understanding of the substance of the information submitted in confidence.</li> </ul>
Signed in the manner indicated in the form under subsection 269TB(4)(d)	The application was signed in the manner indicated in Form B108.
Supported by a sufficient part of the Australian industry under subsection 269TB(4)(e) and determined in accordance with subsection 269TB(6)	As set out in section 2.4 the Commission is satisfied that there is an Australian industry producing like goods. Comsteel has provided information concerning its own production of railway wheels and stated that there are no other Australian producers of the product. The Commission's own research was unable to identify any other potential producers of railway goods in Australia. Therefore, the Commission is satisfied that: <ul style="list-style-type: none"> <li>• the application has support from more than 25 per cent of the total production in Australia, given that Comsteel itself represents 100 per cent of the total production in Australia; and</li> <li>• more than 50 per cent of the Australian industry (measured by production) which has expressed opposition to or support for the application therefore support the application (as Comsteel is the only member of the Australian industry).</li> </ul>

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<b>Requirement for the application</b>	<b>Details</b>
Lodged in the manner approved under section 269SMS for the purposes subsection 269TB(4)(f)	The application was lodged in a manner approved in the Commissioner's instrument made under section 269SMS, being by email to an address provided in that instrument. The application was therefore lodged in a manner approved under subsection 269SMS(2).

**Table 2: Compliance with subsection 269TB(4)**

## 2.3 The goods the subject of the application

The table below outlines the goods as described in the application and its corresponding tariff classification.

<b>Full description of the goods, as subject of the application</b>
Forged and rolled steel, high hardness, nominal 38-inch (or 966 mm to 970 mm) diameter, railway wheels, whether or not including alloys.
<b>Further information</b>
<p>Comsteel's application notes the following additional information:                      Axles and other components are excluded from the goods coverage.                      The railway wheels are manufactured in accordance with the relevant user defined specifications and drawings, and are used on rail carriages used to transport iron ore. The users of these type of railway wheels are:</p> <ul style="list-style-type: none"> <li>• BHP Billiton Ltd (BHP);</li> <li>• Rio Tinto Ltd (Rio Tinto);</li> <li>• Fortescue Mining Group (FMG); and</li> <li>• Roy Hill Holdings Pty Ltd (Roy Hill).</li> </ul> <p>The railway wheels used in all user applications have the following typical characteristics:</p> <ul style="list-style-type: none"> <li>• 38 inch or 966 mm to 970 mm diameter and of similar overall dimensional tolerances and shape;</li> <li>• manufactured from a high carbon steel with the addition of micro alloying elements to achieve hardness and mechanical properties as defined in the user specifications;</li> <li>• manufactured using a forging and rolling process in accordance with defined standards;</li> <li>• suitable to operate at axle loads above 36 metric tonnes; and</li> <li>• a multi-wear rim.</li> </ul> <p>The wheels are manufactured in accordance with specifications established by the users listed above (and included as confidential attachments to the application). Comsteel highlights that the specifications may be slightly modified and renamed to suit the specific manufacturer's production process, however, all railway wheels will typically be in accordance with the iron ore producer's specifications.</p>



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Tariff classification (Schedule 3 of the <i>Customs Tariff Act 1995</i> )				
Tariff code	Statistical code	Unit	Description	Duty rate
8607.19.00	20 <sup>5</sup>	number	PARTS OF RAILWAY OR TRAMWAY LOCOMOTIVES OR ROLLING-STOCK: -- Other, including parts: Wheels, whether or not fitted with axles	China: 2% from 1 January 2017  France: 5%
Previous investigations				
This is the first investigation into the alleged dumping and subsidisation of railway wheels undertaken by the Commission.				

**Table 3: The goods**

## 2.4 Like goods and the Australian industry

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application on the basis that:

- Comsteel produces goods that have characteristics that closely resemble the goods the subject of the application, and
- the goods produced by Comsteel are wholly produced in Australia.

### 2.4.1 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application under subsection 269TB(1) if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

Like goods are defined under subsection 269T(1). Subsections 269T(1), 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

### 2.4.2 Locally produced like goods

The table below summarises the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods.

Factor	The Applicant's claims	The Commission's assessment
Physical likeness	That the goods produced by the Chinese and French exporters are similar in physical appearance and specification.	The Commission considers that both the imported goods and the goods produced by the Australian industry are physically alike, noting the very clear physical and technical specifications required by the customers.

<sup>5</sup> This statistical code became active from 1 July 2015, and relates specifically to wheels. Previously, these goods were classified to statistical code 17, which was inclusive of a broader range of good types.

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Factor	The Applicant's claims	The Commission's assessment
Commercial likeness	That the imported goods compete directly with the locally produced goods and are interchangeable on axles for iron ore rolling stock. The selling prices for the imported railway wheels and the locally produced railway wheels are similar, albeit that the former is priced at levels below the selling prices for locally produced railway wheels.	The Commission considers that the imported goods and the goods produced by the Australian industry are commercially alike, as they compete directly in a market which is characterised by a small number of customers and active producers. Given the specifications required by the customers, competition appears to be primarily on the basis of price, quality and delivery arrangements.
Functional likeness	That the imported goods and the locally produced goods perform the same function and are used in the same end-use application.	The Commission considers that the imported and locally produced railway wheels are functionally alike as they have an identical end use, the rail transport of iron ore from mines to ports in the Pilbara region of Western Australia (WA).
Production likeness	That the imported and locally produced railway wheels are manufactured via similar production processes.	The Commission considers that the production and finishing processes are likely to be substantially identical across all producers of these railway wheels (and which is included in the specifications required by the customers).
<b>Commission's assessment</b>		
The Commission's assessment is that the locally produced goods closely resemble the goods the subject of the application and are like goods. The specifications required by the customers for railway wheels provide little basis for the locally produced goods and the imported goods to diverge in terms of their physical, commercial and functional likenesses, and the production of the goods is likely to be substantially identical.		

**Table 4: Assessment of like goods**

### 2.4.3 Manufacture in Australia

Comsteel claims that the entire manufacturing process for domestically produced railway wheels takes place in Australia. Comsteel advises that it manufactures railway wheels (both the like goods, and other products which are not the goods) at its facility at Waratah, New South Wales. The railway wheels are manufactured from predominantly locally sourced raw materials, though some alloys and elements are imported.

The steel ingot feed material is manufactured in Comsteel's electric arc furnace (EAF) from recycled steel and produced in conformance with the end-user specification. Railway wheels are then forged, rolled and machined from this ingot feed. The railway wheels are then tested for compliance with the relevant end-user specifications prior to being supplied to the customer.

#### The Commission's assessment

The Commission considers that at least one substantial process of manufacture is carried out in Australia and considers the like goods to have been manufactured in Australia.

## 2.5 Australian industry information

The table below summarises the Commission’s assessment of whether Comsteel has provided sufficient information in the application to analyse the performance of the Australian industry.

<b>Have the relevant appendices to the application been completed?</b>		
<b>A1</b>	Australian production	Yes
<b>A2</b>	Australian market	Yes
<b>A3</b>	Sales turnover	Yes
<b>A4</b>	Domestic sales	Yes
<b>A5</b>	Sales of other production	Yes
<b>A6.1</b>	Cost to make and sell (& profit) – Domestic sales	Yes
<b>A6.2</b>	Cost to make and sell (& profit) – Export sales	Yes
<b>A7</b>	Other injury factors	Yes
<b>General administration and accounting information</b>		
<b>History</b>	Comsteel was founded in 1917.	
<b>Ownership</b>	Comsteel is an Australian proprietary company, limited by shares, and registered with the Australian Securities and Investments Commission (ASIC). Comsteel is 100 per cent owned by Grinding Media Pty Ltd, which is ultimately owned by American Industrial Partners (AIP MC Holdings LLC, a US entity).	
<b>Operations</b>	Comsteel’s operations include the production of steel from its own EAF, and the production of a range of downstream products including grinding media and railway wheels. Comsteel’s head office and production facilities are located in Waratah, New South Wales.	
<b>Financial year</b>	July to June financial year.	
<b>Audited accounts</b>	The application has included a copy of both audited and unaudited accounts for AIP MC Holdings LLC and its subsidiaries covering the period ending 30 September 2017 ( <i>Confidential Attachment A-2.9</i> refers).	
<b>Annual reports</b>	<p>As noted in its application, on 3 January 2017 the Moly-Cop group of companies (including Comsteel) was purchased by American Industrial Partners. American Industrial Partners is a private equity partner and does not publish an annual report.</p> <p>Prior to the purchase of the Moly-Cop group by American Industrial Partners, Moly-Cop’s total business financials were included in the Arrium Group’s consolidated financial data as part of the mining consumables business. A separate annual report for the Moly-Cop group (including Comsteel) is therefore not available.</p>	

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Production and sales information	Cost to make and sell information	Other injury factors
The Commission has no significant concerns regarding the production and sales information provided.	The Commission has no significant concerns regarding the cost data provided.	The Commission has no significant concerns regarding the data provided in Appendix A7 to the application.
The Commission's assessment		
Based on the information in the application, the Commission is satisfied that there is sufficient data on which to analyse the performance of the Australian industry between January 2014 and December 2017.		

**Table 5: Australian industry information**

### 2.5.1 Market size

In its application Comsteel had regard to its own production volumes (*Confidential Appendix A2* refers) and to Australian Bureau of Statistics (ABS) data concerning the volume of the goods imported during the period from 1 January 2014 to 31 December 2017 in order to estimate the size of the Australian market. Comsteel acknowledged some limitations in the ABS data that it had relied upon, noting both the commencement of the new statistical code within the tariff classification, and that December 2017 data was not available at the time of preparing its application. Comsteel's application included no data concerning imports of the goods in 2014.

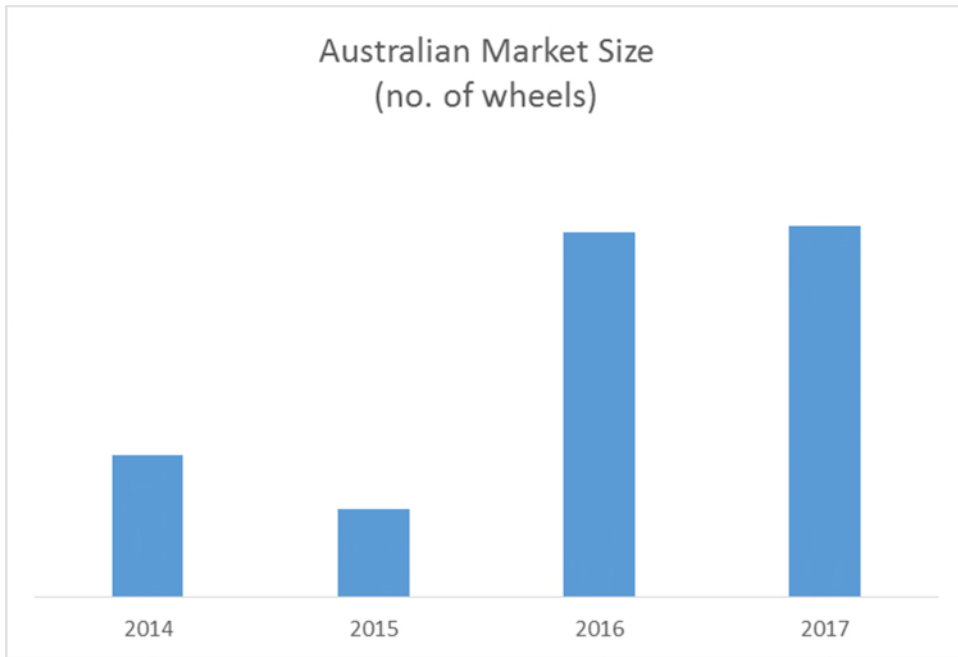
Comsteel's application indicated there has been an apparent threefold increase in the size of the Australian market between 2014 and 2017, and a large increase in the volume of imported goods, predominantly from the subject countries.

The Commission has compared the information provided by Comsteel with the Australian Border Force (ABF) import database for the purpose of assessing the size of the Australian market for railway wheels. The Commission noted that the ABF data includes a number of consignments under the relevant tariff classification which were not the goods, and a number of consignments which may be the goods but for which the goods description in the import declaration is inconclusive and the circumstances of the importation provide no further guidance.

In order to refine the ABF data, the Commission has had regard to Comsteel's observations regarding the Australian market, noting in particular the weight of the goods (where declared), the geographically constrained market and the small number of customers for what are tightly specified goods. The Commission has also had regard to the exporters identified by Comsteel as its competitors in the Australian market. The Commission's analysis of the ABF data is in **Confidential Attachment 1**.

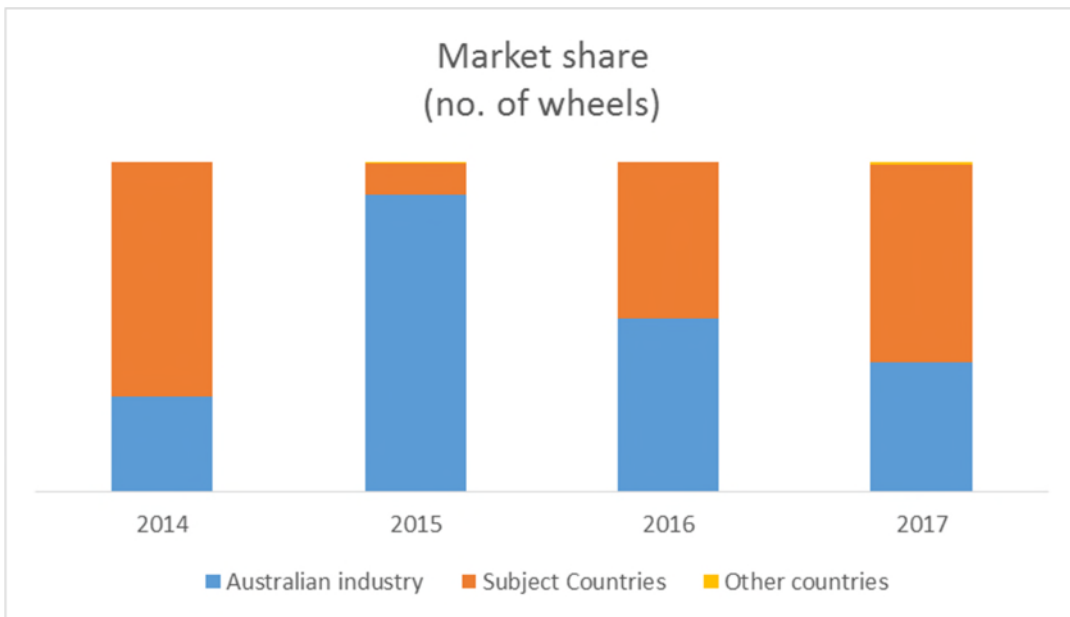
The Commission estimates that the Australian market for railway wheels in 2017 was approximately 20,000 wheels. Movements in the size of the Australian market are shown in Figure 1, below.

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**Figure 1: Estimated total Australian market for railway wheels**

The Commission observes that the respective shares of the Australian market have fluctuated over the same period. There are negligible imports of railway wheels from countries other than the subject countries.



**Figure 2: Share of Australian market for railway wheels**

## 3 REASONABLE GROUNDS – DUMPING

### 3.1 Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the claims that:

- the goods have been exported to Australia from China and France at dumped prices;
- the estimated dumping margin for exports from China and France are greater than 2 per cent and therefore are not negligible, and
- the estimated volume of goods from China and France that appear to have been dumped are each greater than 3 per cent of the total Australian import volume of goods and therefore are not negligible.

### 3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the relevant Minister must be satisfied of in order to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods, i.e. that dumping has taken place (to an extent that is not negligible). This issue is considered in the following sections.

### 3.3 Export price

#### 3.3.1 Legislative framework

Export price is determined by applying the requirements in section 269TAB taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA.

#### 3.3.2 Comsteel's estimate

The table below summarises the approach taken by the applicant to estimate export prices and the evidence relied upon. The Commission's examination of Comsteel's data is contained in **Confidential Attachment 2**.

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Country	Basis of estimate	Details
China	The price paid or payable by the importer to the exporter in arms length transactions – subsection 269TAB(1)(a).	Comsteel has utilised ABS import data for goods declared under the relevant tariff classification in order to estimate a Free on Board (FOB) export price.  Comsteel filtered the ABS data by reference to the country and port of origin of each shipment and the port of importation (noting that all customers utilise the railway wheels for iron ore mining operations in the Pilbara region of WA). Comsteel has then calculated a weighted average export price having regard to the number of wheels imported and the FOB value of those wheels.  The export prices estimated by Comsteel through this methodology are reported in Table B-2.1 in its application.
France	The price paid or payable by the importer to the exporter in arms length transactions – subsection 269TAB(1)(a).	Comsteel has utilised ABS import data for goods declared under the relevant tariff classification in order to estimate a FOB export price.  Comsteel filtered the ABS data by reference to the country and port of origin of each shipment and the port of importation (noting that all customers utilise the railway wheels for iron ore mining operations in the Pilbara region of WA). Comsteel has then calculated a weighted average export price having regard to the number of wheels imported and the FOB value of those wheels.  The export prices estimated by Comsteel through this methodology are reported in Table B-2.1 in its application.

**Table 6: Applicant estimate of export price**

### 3.3.3 The Commission's assessment

The Commission compared the calculations and supporting evidence provided by Comsteel with the ABF import database (as refined by the Commission, contained in **Confidential Attachment 2**). Whilst broadly consistent, the Commission's analysis suggests that some aspects of Comsteel's estimates (such as import volumes, partially accounted for by the absence of December 2017 from Comsteel's data set) are not correct.

For the purpose of estimating export prices for the goods exported from the subject countries, the Commission considers that Comsteel's approach (based on contemporaneous ABS information which is reasonably available to Comsteel) is reasonable. However, the Commission has relied on the ABF import data as the basis for its calculation of export price in this report.

## 3.4 Normal value

### 3.4.1 Legislative framework

Normal value is determined by applying the requirements in section 269TAC taking into account whether:

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- the purchase or sale of the goods was an arms length transaction under section 269TAA;
- the goods were sold in the ordinary course of trade under section 269TAAD;
- there has been an absence or low volume of sales of like goods in the country of export; and
- whether the situation in the market of the country of export is such that sales in that country are not suitable for determining normal value under subsection 269TAC(1).

**3.4.2 The Applicant's estimate**

The table below summarises the approach taken by the applicant to estimate normal values and the evidence relied upon.

Country	Basis of estimate	Details
China	Constructed normal value under subsection 269TAC(2)(c)	<p>Comsteel points to previous cases undertaken by the Commission and findings that government influence over the steel market generally have resulted in particular market situation findings. Noting that the major exporter of railway wheels is vertically integrated and produces its own billet from iron ore, coke or coking coal and scrap steel, Comsteel also suggests that these government influences have resulted in the raw material costs not being competitive market costs.</p> <p>Notwithstanding the above, and in the absence of information concerning domestic prices in China, Comsteel has had regard to actual China domestic billet prices (obtained from an independent steel markets report) in order to estimate a cost of billet incurred by Chinese exporters. Comsteel has then had regard to its own steel usage rates for the production of railway wheels (including scrap yield), its own fixed costs and depreciation in order to estimate a quarterly cost to make.</p> <p>Comsteel had regard to the selling, general and administrative (SG&amp;A) and finance costs (6.77 per cent, calculated as SG&amp;A plus finance costs over total revenue) and the overall profit (7.38 per cent, calculated as the return on net assets excluding non-recurring gains or losses) as reported in the Maanshan Iron &amp; Steel Company Limited (Maanshan) 2016 annual report (included as <i>Non-Confidential Attachment C1.1</i> to the application).</p>



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Country	Basis of estimate	Details
France	Constructed normal value under subsection 269TAC(2)(c)	<p>In the absence of information concerning domestic prices in France, Comsteel has had regard to actual Europe domestic billet prices (obtained from an independent steel markets report) in order to estimate a cost of billet incurred by French exporters. Comsteel has then had regard to its own steel usage rates for the production of railway wheels (including scrap yield), its own fixed costs and depreciation in order to estimate a quarterly cost to make.</p> <p>Comsteel had regard to its own actual SG&amp;A costs, and applied an amount for profit (7.38 per cent, calculated as the return on net assets excluding non-recurring gains or losses) as reported in the Maanshan 2016 annual report, noting that MG-VALDUNES S.A.S. (VALDUNES, the known French exporter of the goods) is a subsidiary of Maanshan.</p>

**Table 7: Applicant methodology for normal value**

### **3.4.3 The Commission's assessment**

The Commission's calculations are included in **Confidential Attachment 2**.

#### China

The Commission notes Comsteel's claims concerning the existence of a particular market situation that makes domestic prices for railway wheels in China unsuitable for the purpose of calculating a normal value under subsection 269TAC(1). In the alternative, Comsteel argues that due to GOC influence in raw materials market the exporters' recorded costs of production do not reasonably reflect competitive market costs. The Commission will examine these issues in the course of the investigation.

The Commission has examined the calculations provided by Comsteel in support of its estimate of the normal value for China. The Commission considers that Comsteel's approach to estimating the cost to make (replacing its own steel costs with the steel billet benchmark, but retaining its own usage and yield rates etc.) is reasonable in the absence of Chinese domestic price information. However, the Commission observed that Comsteel did not apply the SG&A and finance costs as explained in the application, and noted some other minor errors (such as the application of exchange rates); in any event, the Commission considers that, for the purpose of the calculation of a constructed normal value, it is more appropriate to express the SG&A and finance costs as a proportion of Maanshan's cost of sales rather than as a proportion of revenue. The Commission also considers that the better approach to calculating a profit amount is to simply have regard to the actual net profit achieved as a proportion of total revenue.

The Commission's approach results in an SG&A and finance cost of 7.68 per cent, which when applied to the cost to make establishes a constructed cost to make and sell (CTMS). The Commission has then applied the new profit amount (2.6 per cent) to the CTMS in order to estimate the normal value of domestic sales of railway wheels in China.

France

The Commission has examined the calculations provided by Comsteel in support of its estimate of the normal value for France. The Commission considers that Comsteel’s approach to estimating the cost to make (again, replacing its own steel costs with the steel billet benchmark, but retaining its own usage and yield rates etc.) is reasonable in the absence of French domestic price information. However, the Commission has no basis for concluding that Comsteel’s indirect costs and profit amounts in Australia is representative of the amounts likely to apply to VALDUNES.

In order to take a more conservative approach, the Commission instead applied the same SG&A and finance costs and profit amounts as were used to calculate the normal value for China (and corrected the same minor errors referred to in respect of the China calculation), which resulted in a reduced normal value.

**3.5 Dumping margins**

**3.5.1 Legislative framework**

Dumping margins are determined in accordance with the requirements of section 269TACB. Dumping margins and dumping volumes cannot be negligible, otherwise the investigation is terminated. Whether the dumping margins and dumping volumes are negligible is assessed under section 269TDA.

**3.5.2 The Commission's assessment**

The table below summarises the dumping margins estimated by the applicant, as well as dumping margins calculated by the Commission based on the ABF import data for export prices and the Commission’s revised estimates of normal values.

Dumping margins are expressed as a percentage of the export price.

<b>Country</b>	<b>Applicant’s estimate</b>	<b>Commission’s estimate</b>
China	19.3%	26.0%
France	25.9%	14.6%

**Table 8: Estimate of dumping margins**

Assessed at the levels shown, the dumping margins are not negligible.

**3.5.3 Volume of Dumped Goods**

The Commission’s analysis (set out in **Confidential Attachment 1**) demonstrates that the goods from China and from France each represent more than 3 per cent of the total volume of railway wheels imported between 1 January – 31 December 2017 (the investigation period).

## 4 REASONABLE GROUNDS – SUBSIDISATION

### 4.1 Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the claims that:

- the goods exported to Australia from China have been subsidised;
- the estimated subsidy margin for exports from China is greater than 2 per cent and therefore is not negligible; and
- the estimated volume of goods from China that appear to have been subsidised is greater than 4 per cent of the total Australian import volume of goods and therefore is not negligible.

### 4.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a countervailing duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a countervailing duty notice. Under section 269TJ, one of the matters that the relevant Minister must be satisfied of in order to publish a countervailing duty notice is that subsidisation has taken place (to an extent that is not negligible).

#### 4.2.1 Consultation with the Government of China

In accordance with subsection 269TB(2C), the Commission invited the Government of China (GOC) for consultations during the pre-initiation phase. The purpose of the consultations was to provide an opportunity for the GOC to respond to the claims made within the application in relation to countervailable subsidies, including whether they exist and, if so, whether they are causing, or are likely to cause, material injury to an Australian industry, with the aim of arriving at a mutually agreed solution.

To assist in determining whether it wished to undertake consultations and what it would like to consult on, the GOC was provided with a non-confidential list of the countervailable subsidies alleged in Comsteel's application.

The GOC acknowledged its receipt of the Commission's invitation, but did not request any further contact with the Commission during the consideration phase.

### 4.3 Subsidy programs

#### 4.3.1 Legislative framework

The determination as to whether there is a countervailable subsidy is made in accordance with subsection 269T(1), subsection 269T(2AA), section 269TACC and section 269TAAC.

#### 4.3.2 The Applicant's claims

The table below summarises the claims by Comsteel that the goods exported to Australia have benefited from countervailable subsidies and the evidence relied upon.

**PUBLIC RECORD**

Category 1: Provision of Goods	
Program Number	Program Name
1	Billet provided by government at less than adequate remuneration
2	Coking coal provided by government at less than adequate remuneration
3	Coke provided by government at less than adequate remuneration
4	Electricity provided by government at less than adequate remuneration
Basis of Claims	Details / Summary of Claims
<p>The applicant claims that previous findings of subsidies received in the Commission's investigations into rod in coil and rebar would also be applicable in this case.</p>	<p>The applicant contends that as the exported goods are products of the Chinese steel industry, and the Commission has previously concluded that goods manufactured from billet in the Chinese steel industry attract a broad range of subsidies, it is reasonable to conclude that the previously identified programs also afford benefits to Chinese exporters of railway wheels.</p> <p>The applicant has relied upon the findings in <i>Anti-Dumping Commission Report No. 322 (REP 322)</i> and <i>Anti-Dumping Commission Report No. 331 (REP 331)</i> concerning rebar and rod in coil (RIC) exported from China, respectively. The applicant has submitted that the billet used in RIC and rebar is the same billet used in the production of railway wheels.</p> <p>Maanshan's annual report states that it is one of the largest iron and steel producers and sellers in China, with its major businesses being production and sales of iron and steel products. Additionally, Maanshan's annual report states that the main production processes include iron making, steel making and steel rolling <i>inter alia</i>. The annual report states that the actual controller of the Company is the <i>State-owned Assets Supervision and Administration People's Government of Anhui Provincial Government</i>.</p> <p>The applicant considers that for Program 1 – there has not been any difference in the findings as published in REP 322 and REP 331 and the finding of steel billet at less than adequate remuneration continues to apply.</p> <p>For Programs 2-4, there is no evidence available to the Commission to include these programs in a preliminary subsidy margin calculation. However, recognising that coking coal, coke and electricity are key inputs to the production of billet and noting that Maanshan is a producer of billet for its own use, the Commission considers that Program 1 represents an appropriate proxy for the purpose of calculating a preliminary subsidy margin in relation to Programs 2-4. In doing so, the Commission has relied on the benchmark established in REP 331.</p>

**PUBLIC RECORD**

<b>Category 2: Preferential Tax Policies</b>	
<b>Program Number</b>	<b>Program Name</b>
5	Preferential Tax Policies for High and New Technology Enterprises
6	Preferential Tax Policies in Western Regions
7	Land Use Deduction
8	Tariff and VAT Exemptions on Imported Materials and Equipment
9	VAT refund on comprehensive utilization of resources
<b>Basis of Claims</b>	<b>Details / Summary of Claims</b>
<p>The applicant claims that previous findings of subsidies received in the Commission's investigations into rod in coil and rebar would also be applicable in this case.</p>	<p>The applicant contends that as the exported goods are products of the Chinese steel industry, and as the Commission has previously concluded that goods manufactured from billet in the Chinese steel industry attract a broad range of subsidies, it is reasonable to conclude that the previously identified programs also afford benefits to Chinese exporters of railway wheels.</p> <p>The Commission has previously found evidence of these subsidies being provided to Chinese exporters in the steel manufacturing industry and considers that it is reasonable to consider that the exporter may have received a financial benefit from the GOC that is countervailable under these programs.</p> <p>In the absence of evidence to support the amount of subsidy received, the Commission is relying on the findings of uncooperative exporters in REP 331 as the basis for determining the preliminary subsidy margin.</p>

**PUBLIC RECORD**

<b>Category 3: Financial Grants</b>	
<b>Program Number</b>	<b>Program Name</b>
10	One-time Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” and “Famous Brands of China”
11	Matching Funds for International Market Development for small and medium size enterprises (SMEs)
12	Superstar Enterprise Grant
13	Research and Development (R&D) Assistance Grant
14	Patent Award of Guangdong Province
15	Innovative Experimental Enterprise Grant
16	Special Support Fund for Non-State-Owned Enterprises
17	Venture Investment Fund of Hi-Tech Industry
18	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
19	Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan
20	Water Conservancy Fund Deduction
21	Wuxing District Freight Assistance
22	Huzhou City Public Listing Grant
23	Huzhou City Quality Award
24	Huzhou Industry Enterprise Transformation & Upgrade Development Fund
25	Wuxing District Public List Grant
26	Anti-dumping Respondent Assistance
27	Technology Project Assistance
28	Transformation technique grant for rolling machine
29	Grant for Industrial enterprise energy management - centre construction demonstration project Year 2009
30	Key industry revitalization infrastructure spending in 2010
31	Provincial emerging industry and key industry development special fund
32	Environmental protection grant
33	Environmental Protection Fund
34	Intellectual property licensing
35	Financial resources construction - special fund
36	Reducing pollution discharging and environment improvement assessment award
37	Grant for elimination of out dated capacity
38	Grant from Technology Bureau
39	High and New technology Enterprise Grant
40	Independent Innovation and High-Tech Industrialization Program

**PUBLIC RECORD**

41	Environmental Prize
42	Jinzhou District Research and Development Assistance Program
<b>Basis of Claims</b>	<b>Details / Summary of Claims</b>
The applicant claims that previous findings of subsidies received in the Commission's investigations into rod in coil and rebar would also be applicable in this case.	<p>The applicant contends that as the exported goods are products of the Chinese steel industry, and as the Commission has previously concluded that goods manufactured from billet in the Chinese steel industry attract a broad range of subsidies, it is reasonable to conclude that the previously identified programs also afford benefits to Chinese exporters of railway wheels. The applicant is relying on the findings of REP 322 and REP 331 as evidence of the receipt of Programs 10 to 46.</p> <p>The Commission considers this approach reasonable for the purpose of considering whether to initiate an investigation, however notes that a number of the above programs are based on locations which may not correlate to the location of Maanshan.</p>

**PUBLIC RECORD**

Category 4: Equity Programs	
Program Number	Program Name
43	Debt for equity swaps
44	Equity infusions
45	Unpaid dividends
Basis of Claims	Details / Summary of Claims
<p>Although the Commission did not find in REP 322 that Chinese exporters received benefits under these Programs, Comsteel submits that state-owned Chinese exporter Maanshan may nevertheless have received a benefit under these equity programs.</p>	<p>The applicant contends that as the exported goods are products of the Chinese steel industry, and as the Commission has previously concluded that goods manufactured from billet in the Chinese steel industry attract a broad range of subsidies, it is reasonable to conclude that the previously identified programs also afford benefits to Chinese exporters of railway wheels.</p> <p>No evidence has been provided to support the allegation that subsidies have been received under these programs. As such, these programs have not been included in the Commission's estimate of the subsidy margin.</p> <p>The Commission accepts the applicant's submission that despite REP 322 and REP 331 not finding evidence of receipt of these subsidies, the Commission cannot conclude that these subsidies do not exist. As such, the Commission will not exclude these programs from the investigation.</p>



**PUBLIC RECORD**

<b>Category 5: Preferential Loans and Interest Rates to Producers</b>	
<b>Program Number</b>	<b>Program Name</b>
46	Preferential loans and interest rates.
<b>Basis of Claims</b>	<b>Details / Summary of Claims</b>
The applicant claims that previous findings of subsidies received in the Commission's investigations into rod in coil and rebar would also be applicable in this case.	<p>The applicant contends that Maanshan has an overdue amount of RMB 100,257,036 that is payable by the group's subsidiary, Masteel Shanghai Trading (MST). As at 31 December 2016, MST was in liquidation and the loan amounts remained outstanding.</p> <p>The Commission considers that there is evidence of a loan being provided by MST to the exporter, however, there is insufficient evidence to establish that this loan could be considered to be a financial contribution provided by the GOC.</p> <p>As such, this program has not been included in the preliminary calculation of the subsidy margin.</p>

**PUBLIC RECORD**

<b>Category 6: Miscellaneous Programs Disclosed in the 2016 Annual Report of Maanshan Iron &amp; Steel Company Limited</b>	
<b>Program Number</b>	<b>Program Name</b>
47	Compensation for land purchasing and storage
48	Technological transformation fund for Phase II Silicon Steel Project
49	Subsidy for land use rights in the new zone (Block No. 31836 & 31837)
50	Subsidy for developing emerging strategic industries in Anhui Province
51	New-zone Thermal Power Plant CCPP system engineering
52	EMU Steel wheel production line project
53	Cold-rolled sheet project
54	Relocation compensation for transportation company
55	Exhaust gas power generation projects of - Steel blast furnace- 1# - 4# coke dry quenching
56	Dezincification engineering of zinc dust and mud rotary hearth furnace for 3rd iron plant
57	National subsidy for slag muck processing and recycling engineering (AD201050406)
58	Subsidy for construction by Wuhu Technique
59	6# full burning blast furnace gas boiler works
60	Municipal environmental protection subsidies for desulfurisation engineering of 3rd iron plant's sintering flue gas
61	5# and 6# coke dust removal project
62	Fix assets subsidy for thin plate project
63	Flue gas curtailment project for 1st iron plant's blast furnace
64	Subsidy for technology advancement from open-hearth furnace to converter for 1st steel plant
65	Rolled wheel works
66	Pulse clarifier anti-pollution
67	Environmental funds for desulfurisation project of 3rd iron plant's flue gas (BOT)
68	National environmental fund for flue gas treatment by 3rd steel plant (AI201150304)
69	Subsidies for environmental protection funds of smoke desulfurisation plant
70	No. 3 general factory thermoelectricity plant 135MW generators
71	New zone coking-field project
72	Comprehensive utilisation of water resources
73	Subsidy for Masteel new-zone CDQ project
74	Subsidy for material modification of high-speed wheel and axle

**PUBLIC RECORD**

75	Environmental protection subsidy for the thermal power plant Dentrification
76	Subsidies for environmental protection funds of smoke desulfurisation project No.2 iron general factory 2# sintering machine
77	Subsidies for environmental protection funds of smoke desulfurisation project No.2 iron general factory 3# sintering machine
78	Interest subsidy for rail industrialisation project of Masteel
79	Development and reform subsidy
80	Development fund of efficient and economical construction steel technology
81	Technology development fund by Ministry of science and technology
82	Intelligent manufacturing fund for Ma-steel Rail Transportation
83	Subsidy for Maanshan railway industry
84	Comprehensive utilisation of gas for power generation of a thermal power plant
85	Environmental subsidy for biochemical water upgrade project of coke old area upgration project of coke old
86	Government subsidy for desulphurisation and denitrification of gases project of a thermal power plant
87	Government subsidy for dust elimination of hot metal pouring on converter roof
88	Others
Basis of Claims	Details / Summary of Claims
<p>The applicant contends that programs 47-88 are identified in the Maanshan financial statements for 2016. It is noted that Programs 52, 65, 74, 78, 82 and 83 are related to railway activities and are considered by the applicant to impact the manufacture of railway wheels by Maanshan.</p>	<p>The applicant claims that the subsidies identified in Maanshan's financial report for 2016 (Programs 47 to 88) indicate that Maanshan received total RMB 103,844,476. This is supported by Note 35 to the financial statements which refers to Deferred Income 'government grants', demonstrating an increase of the grant of 103,844,476 over the financial year.</p> <p>Analysis of the exporter's financial statements indicate that there are a further three programs not specifically identified by the applicant:</p> <ul style="list-style-type: none"> <li>• <b>Program 89</b> – Environmental subsidy funds for flue gas desulfurisation and 135mW thermal power;</li> <li>• <b>Program 90</b> – Hot rolled sheet program; and</li> <li>• <b>Program 91</b> – Exhaust heat power generation by sintering belt cooler of 3<sup>rd</sup> iron plant.</li> </ul> <p>The inclusion of these programs does not affect the total amount of subsidies alleged by the applicant to have been received by Maanshan.</p> <p>The Commission considers that the information contained in the financial statements of the exporter constitute reasonable evidence that a financial contribution from the GOC has been received by the exporter.</p>

**Table 9: Applicant claims regarding alleged countervailable programs**

### 4.3.3 The Commission's assessment

The Commission considers that the applicant has provided reasonable evidence of the receipt of subsidies in relation to the Chinese exporter of the goods the subject of the application.

#### Program 1 – Billet provided by the GOC at less than adequate remuneration

The applicant alleges that the raw materials used in the production of railway wheels is the same as the raw materials used in rod in coil and rebar (REP 322 and REP 331 refer). The applicant alleges that any subsidies which impact on the raw materials associated with the production of billet (or which subsidise the billet in its own right) would also confer a financial benefit on an exporter that produces railway wheels from those raw materials.

Considering the information contained in the exporter's financial statements, noting that it is itself a state-invested enterprise or under the control of government,<sup>6</sup> and having regard to previous findings in REP 322 and REP 331 concerning the subsidisation of billet, there is *prima facie* evidence to suggest that the exporter may have received a subsidy relating to Program 1. The value of this subsidy has been estimated using information contained in the exporter's financial statements and the benchmarking methodology used in REP 331, indexing to achieve a more contemporaneous figure.

#### Programs 5-9 - Preferential Tax Policies

The applicant has alleged that REP 322 and REP 331 should be relied upon as evidence that these programs exist and are potentially available to the exporter. For the purpose of estimating these benefits to establish a preliminary subsidy margin, the Commission has used the subsidy margin calculated for uncooperative exporters in REP 322 and REP 331. Further information will be requested from the GOC and the exporter during the course of the investigation.

#### Programs 10-45 - Financial Grants and Equity Programs

The applicant alleges that REP 322 and REP 331 should be relied upon as evidence that these programs exist and are potentially available to the exporter. For the purpose of estimating these benefits to establish a preliminary subsidy margin, the Commission has used the subsidy margin calculated for uncooperative exporters in REP 322 and REP 331. Further information will be requested from the GOC and the exporter during the course of this investigation.

#### Program 46 – Preferential Loans and Interest Rates.

The applicant alleges that the financial statements of the exporter indicate that a preferential loan has been provided by the GOC. Analysis of the financial statements support the applicant assertion that the exporter has an outstanding loan from a related entity MST. The applicant alleges that MST is in administration, and therefore the loan is supported by the GOC.

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<sup>6</sup> Maanshan's annual report states that the actual controller of the Company is the *State-owned Assets Supervision and Administration People's Government of Anhui Provincial Government*.

## PUBLIC RECORD

Pursuant to section 269T, the definition of a subsidy requires that a financial contribution is made by a government, a public body, or a private body directed by that government; and that involves a direct transfer of funds from that government body, or the acceptance of liabilities, whether actual or potential by that government body. The Commission does not have sufficient *prima facie* evidence to determine whether this loan could be considered a financial contribution by the GOC, as no evidence has been furnished to support an assertion that the GOC has accepted liability for the outstanding loan. As such, a subsidy margin has not been estimated for this program.

### Programs 47-91 – Miscellaneous programs included in the exporter's financial statements

The applicant contends that Maanshan's financial statements demonstrate that it has received RMB 103,844,876 in subsidies under these programs. Analysis of the financial statements indicate that this amount is the total 'government grants' received for the 2016 period, and a further RMB 116,979,983 in government grants have been expended in the 2016 financial year. This is listed in the financial statements as 'included in non-operating income'. The Commission is satisfied that this is reasonable evidence that Maanshan has received a financial contribution in the form of a direct transfer of funds from the GOC or other government bodies.

### Conclusion

The Commission notes that it has identified the existence of programs 1 to 45 in previous cases, and has been satisfied that they may be countervailable. Based on the information contained in the application and the Commission's preliminary assessment of the evidence provided, there appears to be reasonable grounds to conclude that a financial contribution has been provided to the exporter by the GOC (or other government bodies), and that the financial contribution is specific (either because it is limited to Maanshan, to companies in a particular region or industry, or to companies with particular characteristics or in respect of particular products etc.) in relation to programs 47-91. The Commission has therefore concluded that there are reasonable grounds for finding that countervailable subsidies have been received in respect of railway wheels produced in China.

The Commission will seek the necessary information from the GOC and from the Chinese exporter in order to assess the alleged subsidy programs.

## **4.4 Amount of countervailable subsidy**

### **4.4.1 Legislative framework**

Subsidy margins are determined under section 269TACD. The amount of the countervailable subsidisation and the volume of subsidised goods cannot be negligible. Whether the countervailable subsidisation and the volume of subsidised goods are negligible is assessed under section 269TDA.

### **4.4.2 The Commission's assessment**

Using the financial statements of the exporter provided by the applicant in conjunction with the benchmark methodology for billet used in REP 322 and REP 331, the Commission has estimated the subsidy margin by reference to Program 1 (Billet provided by the GOC at less than adequate remuneration) as a proxy for Programs 2-4.

**PUBLIC RECORD**

For Programs 5-46, the Commission has not calculated a subsidy margin.

For Programs 47-91, the Commission has used the amounts recognised in the exporter's financial statements as government grants received and government grants expended, to estimate the subsidy margin.

The Commission is satisfied that on the balance of the information available, the subsidy margin is not negligible. The Commission's estimated subsidy margins are contained in **Confidential Attachment 3**.

## 5 REASONABLE GROUNDS – INJURY TO THE AUSTRALIAN INDUSTRY

### 5.1 Findings

Pursuant to subsection 269TC(1)(c), having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced material injury in the form of:

- loss of sales volumes;
- loss of market share;
- price suppression; and
- loss of profit and reduced profitability.

The Commission's analysis of injury is contained in **Confidential Attachment 4**.

### 5.2 Legislative framework

Under section 269TG, one of the matters that the relevant Minister must be satisfied of in order to publish a dumping duty notice is that the Australian industry has experienced material injury. This issue is considered in the following sections.

### 5.3 The Applicant's claims

Comsteel claims that the Australian industry has been injured through:

- loss of sales volumes;
- loss of market share;
- price suppression;
- loss of profit and reduced profitability;
- reduced return on investment;
- reduced attractiveness to reinvest; and
- reduction in employment numbers.

In its application, Comsteel claimed that following a contraction in the iron ore market in 2014 (and into 2015) the iron ore market has made a sustained recovery. Comsteel further claimed that there has been increasing volumes of imports of railway wheels from China since 2015 and France since 2017 at dumped and / or subsidised prices.

### 5.4 Approach to injury analysis

#### 5.4.1 Legislative framework

The matters that may be considered in determining whether the industry has suffered material injury are set out in section 269TAE. Before considering whether injury has been caused by dumping and subsidisation, the Commission will first consider whether this analysis should be undertaken on a cumulative basis. Subsection 269TAE(2C) sets out the requirements for assessing the cumulative effects of goods exported to Australia from different countries.

## PUBLIC RECORD

In relation to a dumping investigation, where exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day (as is the case in this investigation), the cumulative effects of such imports may be assessed if:

- the margin of dumping established for exporters in each country is not negligible; and
- the volume of imports from each country is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and between the imported goods and like goods that are domestically produced.

If the above requirements of subsection 269TAE(2C) are met the Commission will consider if it is appropriate to consider the cumulative effect of the dumped and subsidised exports from China and dumped exports from France during the course of this investigation.

### 5.4.2 The Commission's approach

For the purposes of this analysis, the Commission analysed Comsteel's claims from 1 January 2014 (the injury analysis period). The injury analysis is based on:

- Comsteel's costs, sales and other financial data provided in its application; and
- ABF import data.

## 5.5 Volume effects

### 5.5.1 Sales volume

Figure 3 shows the volume of Comsteel's sales of railway wheels over the injury analysis period.

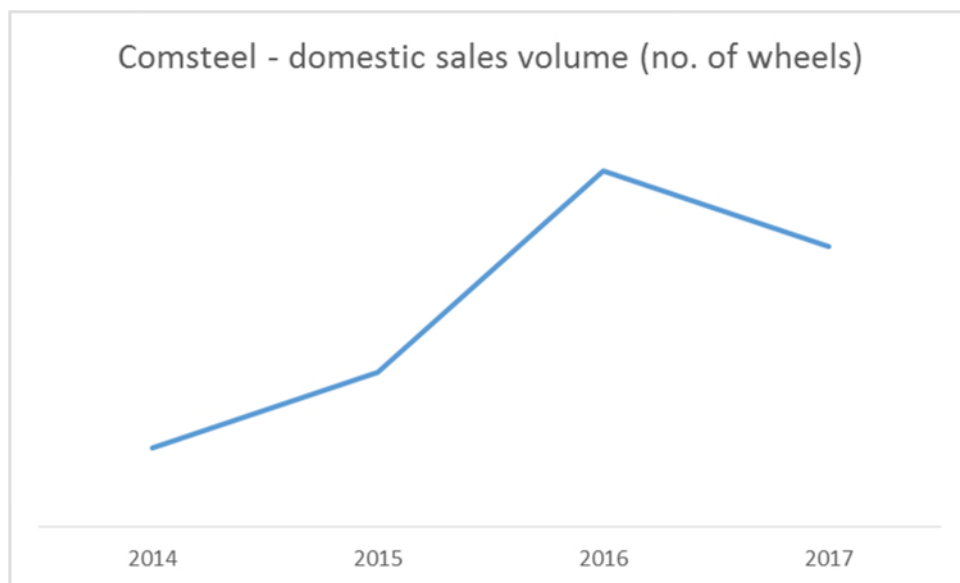


Figure 3: Comsteel's domestic sales over the injury analysis period



The Commission observes that the sales volume of the applicant has increased between 2014 and 2016, which correlates with the recovery of the iron ore market that the applicant has advised occurred in this time period. Domestic sales have reduced between 2016 and 2017.

### 5.5.2 Market share

Comsteel claims that it has been injured in the form of loss of market share since 2015. Figure 2 (reproduced below) shows the total Australian market over the injury analysis period with proportions of Australian domestic sales, imports from the subject countries and other countries.

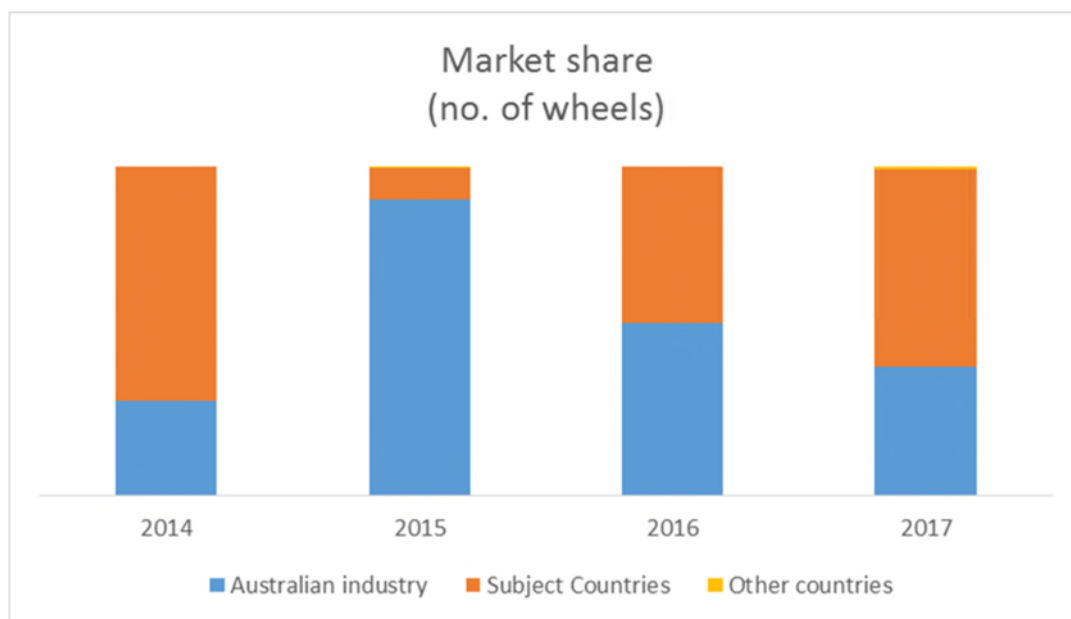


Figure 2: Share of Australian market for railway wheels

The Commission observes that over the period the Australian producer has experienced injury in the form of loss of market share to the subject countries.

Comsteel contends that, while demand for railway wheels has grown as a result of the growth in the iron ore market and the market overall has grown (as shown in Figure 1), it has not seen the benefits of this growth in its sales due to the allegedly dumped and / or subsidised imports from the subject countries.

### 5.5.3 Conclusion – volume effects

Based on this assessment, the applicant has experienced a reduction in its sales volumes and its share of the market. During the investigation period there has been an increase in the volume of imports from the subject countries, and these imports have gained an increased share of the market. Based on this assessment, there are reasonable grounds to support the claim that the Australian industry has suffered injury in the form of loss of market share and reduced sales volumes.

## 5.6 Price effects

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 4 shows the movement in unit prices and unit CTMS provided by Comsteel over the injury analysis period.

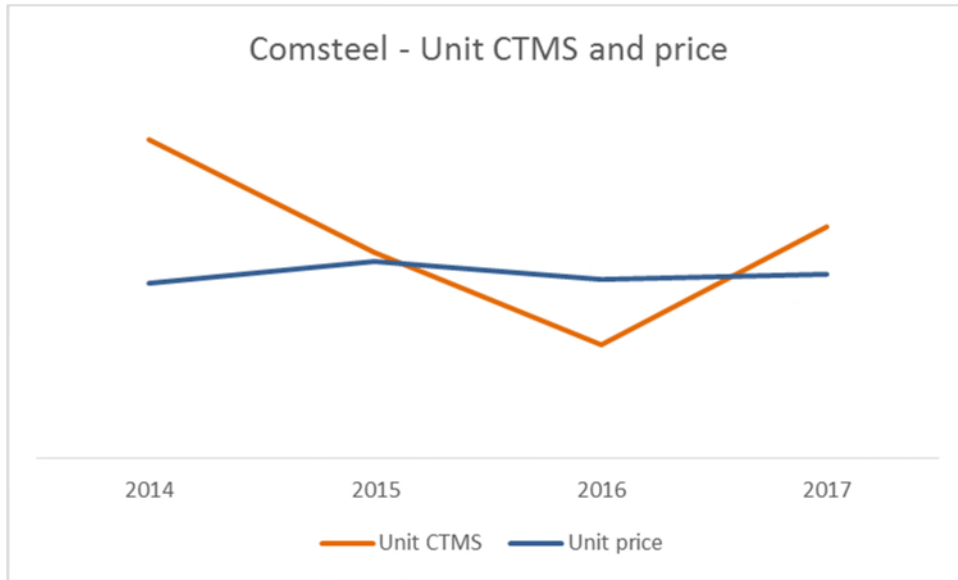


Figure 4: Comsteel's unit price & unit CTMS over the injury period

Comsteel's unit price for the goods has remained relatively stable through the injury analysis period. Figure 5 demonstrates that unit CTMS has fluctuated, reducing sharply between 2014 and 2016 before increasing in the investigation period, resulting in Comsteel moving from a profitable to an unprofitable position. A similarly unprofitable position is apparent prior to 2015 which correlates to the downturn in the iron ore market that the applicant has advised occurred in this time period.

### 5.6.1 Conclusion – price effects

Based on this assessment, there are reasonable grounds to support the claim that the Australian industry has suffered injury in the form of price suppression.

## 5.7 Profit and profitability effects

Figure 5 shows the profit and profitability over the injury analysis and investigation periods.

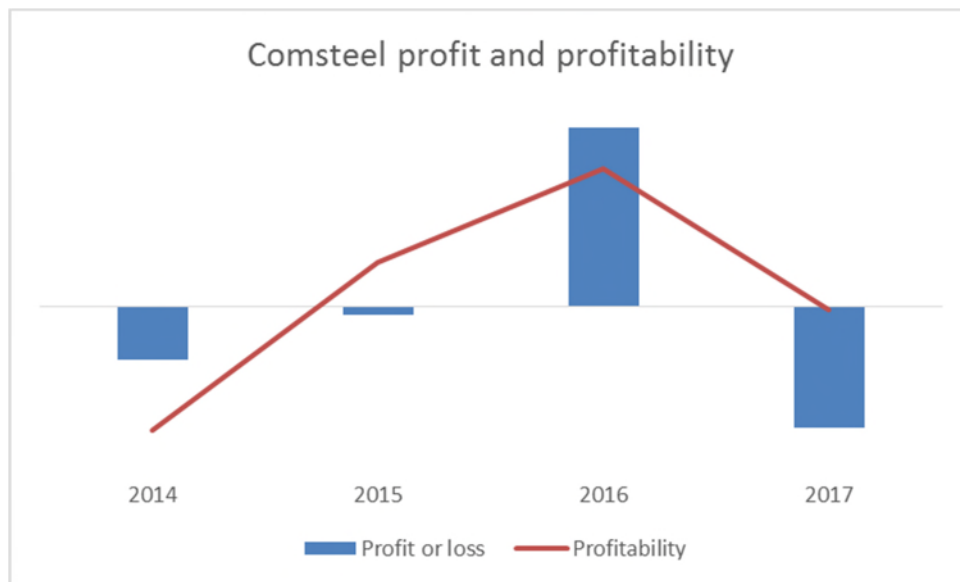


Figure 5: Applicant's domestic unit profit and profitability over the investigation period

Figure 5 demonstrates that Comsteel experienced a deterioration in its profit position in the investigation period, following a recovery between 2014 and 2016. Comsteel's alleged inability to increase prices to account for rising costs of manufacture, as demonstrated in Figure 4 (rising unit CTMS), resulted in reduced profitability.

### 5.7.1 Conclusion – profit and profitability effects

Based on the above there are reasonable grounds to support the claim that the Australian industry has suffered injury in the form of loss of profits and reduced profitability during the investigation period.

## 5.8 Other injury factors

Comsteel completed *Confidential Appendix A7* as part of its application. Comsteel claimed injury in the form of reduced return on investment (ROI), reduced employment numbers and reduced attractiveness to re-invest.

Both ROI and employment numbers show a positive trend in the investigation period (**Confidential Attachment 5** refers), however, the applicant has advised the Commission that the data it has provided includes assets and employees involved in producing items that are not the goods the subject of this investigation. A one off depreciation item has also skewed the ROI.

### 5.8.1 Conclusion – other injury factors

The Commission has considered the other injury factors outlined above and based on the information provided in the application there does not appear to be reasonable grounds to support the claim that the Australian industry has suffered injury in the form of reduced ROI and employment numbers. Further information is also required to investigate a claim of reduced attractiveness to reinvest. A further assessment of these (and other factors) as they specifically relate to the goods will be conducted through the course of the investigation.

## 6 REASONABLE GROUNDS – CAUSATION FACTORS

### 6.1 Findings

Having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there are reasonable grounds to support the claim that the Australian industry has suffered material injury caused by dumped and subsidised imports.

### 6.2 Cause of injury to the Australian industry

#### 6.2.1 Legislative framework

Under sections 269TG and 269TJ, one of the matters that the relevant Minister must be satisfied of in order to publish a dumping duty notice or a countervailing duty notice is that the material injury suffered by the Australian industry was caused by dumping and subsidisation, respectively. This issue is considered in the following sections.

### 6.3 The Applicant's claims

The table below summarises the causation claims of the applicant.

<b>Injury caused by dumping</b>
Volume effects <ul style="list-style-type: none"> <li>As a result of lower volumes, the applicant has experienced higher per unit costs impacting profit and profitability.</li> </ul> Price effects <ul style="list-style-type: none"> <li>An inability to increase selling prices to counter rising costs has had a direct impact on profits and profitability.</li> </ul>
<b>Injury caused by other factors</b>
No claims were made concerning other factors.

Table 10: Applicant's causation claims

### 6.4 The Commission's assessment

#### 6.4.1 The railway wheels market

The applicant has stated that railway wheels are required for new carriages and maintenance of existing rolling stock. As more iron ore is sold and hauled, more railway wheels are required for maintenance of the carriages. The Commission understands that there is a strong correlation between sales of iron ore and demand in the railway wheels market. Figure 6 demonstrates the sales trend in the iron ore market in WA where all four end users of the goods are based.

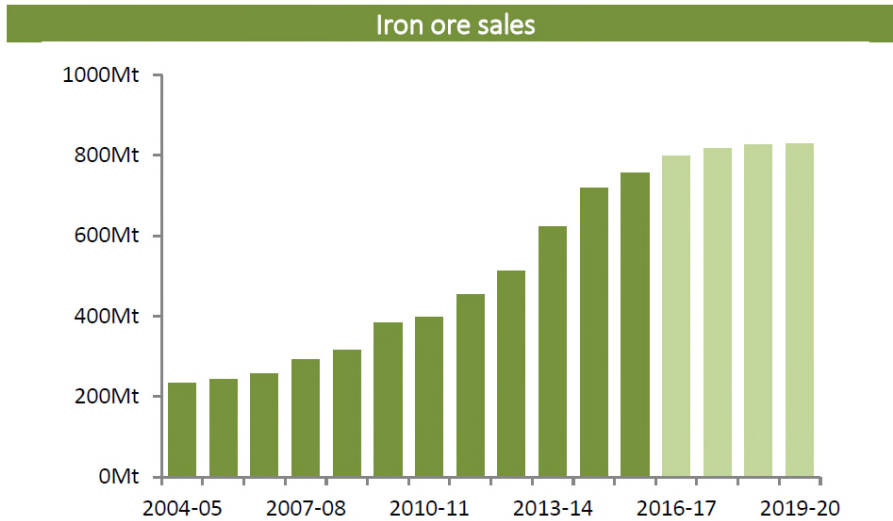


Figure 6: Western Australian iron ore sales<sup>7</sup>

The Commission considers that in addition to iron ore sales, the price of iron ore impacts the demand for the goods. The applicant states that in 2014 (and into 2015) the iron ore price fell, resulting in cost pressures on Australian iron ore producers. During this time, the applicant claims that its customers reduced maintenance spend, consumed contingent wheel stocks and used second-hand redundant wheels in general maintenance.

Figure 7 demonstrates the movements in iron ore prices which support the applicant’s claims of a slump in the iron ore market, with a recovery commencing 2016.

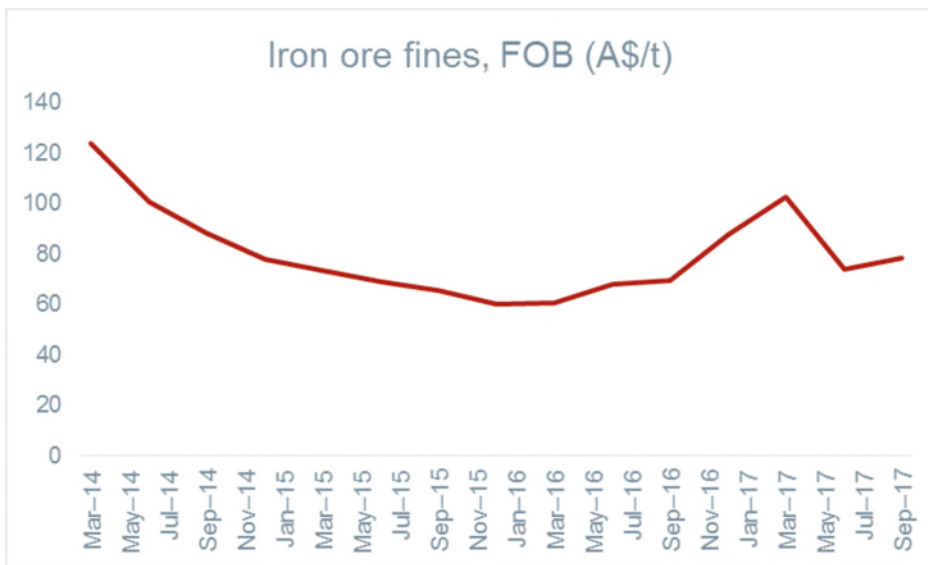


Figure 7: Iron ore price<sup>8</sup>

<sup>7</sup> Government of Western Australia Department of State Development, [Western Australia Iron Ore Industry Profile](#), March 2017. The lighter green bars are a forecast.

<sup>8</sup> Office of the Chief Economist, Department of Industry, Innovation and Science, [Resources and Energy Quarterly](#), December 2017. Iron ore fines have been used in this pricing chart to show trends in iron ore price. Iron ore can also be exported as lumps or pellets.

The Commission notes that despite ongoing maintenance, a railway wheel has a finite period of usefulness. The application states that this is between 8 and 12 years. This means that at the end of this timeframe the originally supplied railway wheels will need to be replaced with new wheels. The demand for railway wheels in 2017-2020 stated in the application is largely based on Comsteel’s analysis of railway wheels that are currently in use that are nearing the end of their useful life. In addition to wheels that are nearing replacement, the applicant has advised that it expects further expansion in the iron ore mines operated by BHP, Rio Tinto, FMG and Roy Hill (leading to increased demand for railway wheels, both in the short term and in the longer term i.e. at the end of their useful life).

### 6.4.2 Volume effects

Noting the negligible volume of railway wheels from other sources, Figure 8 compares movements in the number of railway wheels supplied to the Australian market by Comsteel and from the subject countries.

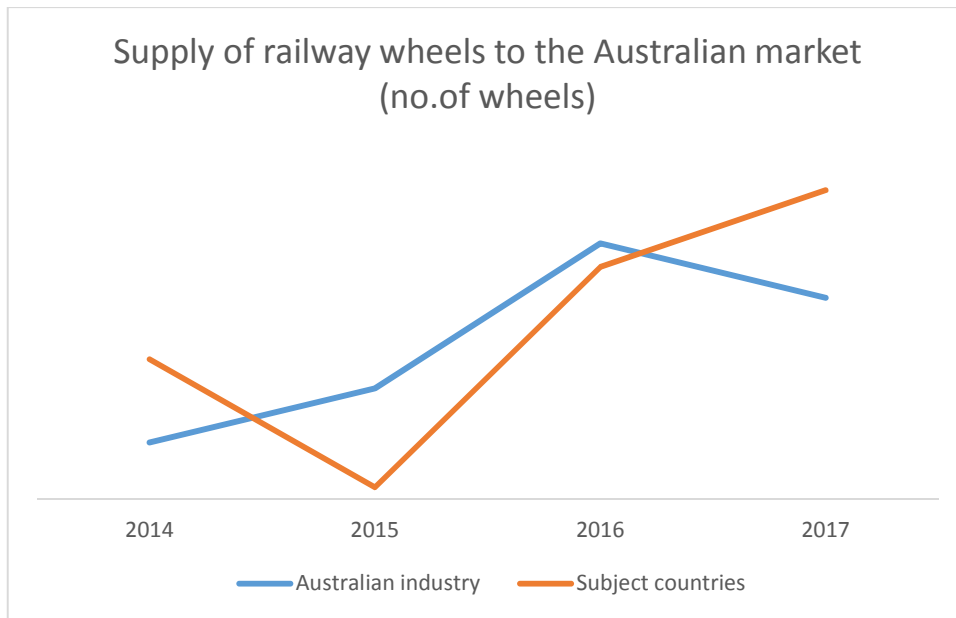


Figure 8: Supply of railway wheels to the Australian market<sup>9</sup>

As demonstrated in Figure 2 and Figure 8, Comsteel has experienced a decline in sales volume and market share in the investigation period. During the same period there is an increase in railway wheels supplied by the subject countries. The Commission understands that reduced volumes will result in higher unit CTMS due to the fixed costs associated with the manufacture of railway wheels. This in turn will negatively impact profit and profitability. The Commission considers there are reasonable grounds to support the applicant’s claims that the allegedly dumped and subsidised imports have caused injury in the form of reduced sales volumes. In an expanding market Comsteel would reasonably expect to achieve increased sales volumes, which has not occurred.

<sup>9</sup> Derived from ABF data (for imports) and data provided by the applicant (Australian industry sales).

During the course of the investigation the Commission will consider injury in the form of lost sales volumes and market share. More specifically, the Commission will consider the additional sales volume and market share that the applicant may have obtained in the absence of dumped and subsidised imports from the subject countries, and the consequential impact on the applicant's sales revenue and profit.

### **6.4.3 Price effects**

The Commission accepts that as customers can purchase either from the applicant or from an import supply source, prices of imports can be used to negotiate prices with the applicant. Comsteel has claimed that, due to allegedly dumped and subsidised imports, its selling price of railway wheels has remained stable over the last four years and does not reflect changes in its cost of production.

#### **6.4.3.1 Price undercutting**

Price undercutting occurs when imported product is sold at a price below that of the Australian industry. The applicant has estimated price undercutting of between 13 and 30 per cent by allegedly dumped imports.

The Commission's initial review of pricing supplied by the applicant and ABF data suggests that there may be price undercutting (**Confidential Attachment 6** refers). This will be reviewed further incorporating information from visits to Australian industry and importers of the goods.

### **6.4.4 Injury caused by factors other than dumping and subsidisation**

The applicant claimed that no other factors impacted the Australian industry during the investigation period.

The Commission will review the market for railway wheels during the injury period and investigate any other factors that may have impacted sales volumes, market share, price and profitability. The Commission intends to understand the impact of Comsteel's export volumes, if any, on ROI and employment numbers.

As stated above, sales volumes and prices of iron ore also affect sales of railway wheels. The Commission will analyse these market factors to understand their impact on Comsteel's volumes, price and profitability.

## **6.5 Conclusion**

Given the applicant's claims in relation to the impact on its volumes, price and consequently profits as a result of the allegedly dumped and subsidised imports, it will be important for the Commission to come to a finding on what pricing in the market would have been, and the broader state of the industry, absent the alleged dumped and subsidised imports, otherwise known as a counterfactual approach. Any findings will be based on evidence gathered throughout the investigation.

## **PUBLIC RECORD**

The Commission considers that:

- the level of the dumping indicated in the application and in the Commission's own calculations; and
- the preliminary assessment of loss of volumes, price suppression and lost profits,

provide reasonable grounds to support a conclusion that exports of the goods from China at dumped and subsidised prices and from France at dumped prices has caused material injury to the Australian industry.



**7 APPENDICES AND ATTACHMENTS**

<u>Attachments</u>	<u>Title</u>
<b>Confidential Attachment 1</b>	ABF import database and Commission analysis
<b>Confidential Attachment 2</b>	Comsteel appendices and Commission analysis
<b>Confidential Attachment 3</b>	Commission's estimate of subsidy margin
<b>Confidential Attachment 4</b>	Injury analysis
<b>Confidential Attachment 5</b>	Other injury factors
<b>Confidential Attachment 6</b>	Preliminary analysis of price undercutting