



**INVESTIGATION 466**

**ALLEGED DUMPING OF CERTAIN RAILWAY WHEELS  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA AND  
FRANCE**

**AND**

**ALLEGED SUBSIDISATION OF CERTAIN RAILWAY WHEELS  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**VERIFICATION VISIT REPORT**

**RIO TINTO LIMITED**

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN  
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT  
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

**June 2018**

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## 1 BACKGROUND

On 18 April 2018, the Anti-Dumping Commissioner (the Commissioner) initiated an investigation into the alleged dumping of certain railway wheels (railway wheels or the goods) exported to Australia from the People's Republic of China (China) and France and the alleged subsidisation of the goods exported to Australia from China. Public notification of the initiation of the investigation was published on the Commission's website. The background relating to the initiation of this investigation is contained in Consideration Report 466.

Following the initiation, the Anti-Dumping Commission (the Commission) wrote to Rio Tinto Ltd (Rio Tinto) and other parties associated with the importation of the goods inviting them to cooperate with the investigation. Rio Tinto purchases the goods on Delivered Duty Paid (DDP) incoterms and does not consider itself to be the importer in the transactions. Rio Tinto nevertheless cooperated with the investigation and completed the importer questionnaire and relevant attachments to the extent possible.

Prior to the meeting, Rio Tinto advised that it would be making a submission to the investigation.

## 2 AUSTRALIAN SALES

Rio Tinto uses the imported goods and does not sell the goods.

## 3 IMPORTS

### 3.1 The goods

Rio Tinto confirmed that, during the investigation period, it purchased railway wheels meeting the description of the goods under investigation, imported from the Chinese exporter, Maanshan Iron & Steel Co Ltd (Masteel).

The imported railway wheels are manufactured to Rio Tinto's specifications. A copy of the specifications is at tab GP-1 of the verification work program at **confidential attachment 1**.

### 3.2 Verification of importation costs

Rio Tinto purchased the goods from Masteel in China on DDP incoterms. Masteel is responsible for delivering the goods to Rio Tinto's logistics and transport company in Perth. As such, Rio Tinto does not incur importation costs in relation to its purchases from Masteel, but does incur (directly or indirectly) additional costs arising after exportation (such as transportation costs).

### 3.3 Import listing

Rio Tinto explained that under its contract arrangements with Masteel, [REDACTED]  
[REDACTED] [describes confidential contractual arrangements with Masteel]

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Therefore, import quantities are a matter for Masteel provided that the minimum requirements are met.

Rio Tinto provided a list of Masteel purchase orders raised in 2017 and a sample of purchase orders from both Comsteel and Masteel and invoices from Masteel (tabs GP-2 and GP-3 of the verification work program at **confidential attachment 1** respectively). The name appearing as the purchasing party on the purchase orders is Pilbara Iron Company (Services) Pty Ltd, a company in the Rio Tinto Group.

As the purchases were at DDP incoterms, the verification team does not have sufficient information to calculate an FOB export price.

### 3.4 The importer

Subject to further inquiries with the exporter, the visit team considers Masteel to be the beneficial owner of the goods at the time of importation and therefore the importer. The transactions are at DDP incoterms and Masteel is responsible for the payment of all expenses until the goods are delivered to Rio Tinto's logistics and transport company in Perth.

### 3.5 The exporter

Subject to further inquiries, the verification team considers Masteel to be the exporter of the goods<sup>1</sup>.

### 3.6 Related party suppliers

Rio Tinto advised that Masteel is a 'Tier 1' customer for its iron ore and coking coal but that its sales arrangements, and the Rio Tinto team that manage those sales, are completely separate to its procurement team and the function it performs.

The verification team did not find any evidence that Rio Tinto is related to its supplier of the goods exported from China during the investigation period.

### 3.7 Arm's length

While the verification team does not consider Rio Tinto to be the importer, it considered the arm's length nature of transactions between Masteel and Rio Tinto.

In respect of the imported goods purchased by Rio Tinto during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or

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<sup>1</sup> The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

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- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly, reimbursed, compensated or otherwise received a benefit for, or in respect of, whole or any part of the price.

Therefore, subject to further inquiries, the verification team is satisfied that transactions between Rio Tinto and Masteel are arm's length.

### 4 GENERAL COMMENTS

#### 4.1 Rio Tinto procurement

Rio Tinto explained that its procurement activities are focussed on supporting its various product groups, including the Rail Division within Rio Tinto Iron Ore. The procurement team works with operational areas of the company to make purchasing decisions based on factors including price, safety, quality and performance.

Rio Tinto prefers to develop long term partnerships with its suppliers.

#### 4.2 Railway wheels

##### *Wheel requirements*

Rio Tinto advised that its rail infrastructure was an important asset, with a large proportion of the value of its revenue being transported by rail. Rio Tinto has in excess of 12,000 iron ore wagons and has for many years been using both Comsteel and Masteel wheels, with Masteel wheels being supplied with new wagons purchased and Comsteel providing replacement wheels. Rio Tinto said that the wheels had a lifespan of approximately 10 to 10.5 years.

##### *Purchasing decision considerations*

Rio Tinto stated that while price was one factor in the wheel purchasing decision, the reliable and safe performance of its railway wheels was also equally important. Wheel failures could cause derailments of the ore trains in populated areas such as at level crossings.

#### 4.3 Purchase of railway wheels

Rio Tinto stated that, in January 2013, it entered into a [redacted] [describes confidential contractual arrangements with the Applicant] contract with Comsteel for the purchase of railway wheels. Prior to this it purchased wheels on an individual order basis. Rio Tinto agreed with Comsteel to a [redacted] [redacted] [describes confidential contractual arrangements with the Applicant].

In early 2017, Rio Tinto embarked on a transformation program to make the company's performance less susceptible to changes in commodity prices. This included engaging

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with suppliers, including Comsteel, with a view to reducing the supplier's cost profile, thereby reducing costs for both businesses.

Rio Tinto engaged with Comsteel on such issues as its raw material supply, optimising ordering patterns and the possibility of streamlining the delivery of wheels to Dampier. Rio Tinto had initially been encouraged about discussions with Comsteel but had then become frustrated and disappointed with Comsteel's lack of responsiveness.

Rio Tinto cited an example of a project being developed to produce iron ore cars in Western Australia. The company stated that the project, which was ultimately unsuccessful, demonstrated Comsteel's inability to supply at terms that supported the project proceeding. Rio Tinto notes that while this was not the sole reason for the project not proceeding, it was a contributing factor. Rio Tinto advised that it had instead purchased two 'consists' of iron ore railway wagons from China that were fitted with Chinese wheels.

Following these events, Rio Tinto decided to explore a second line of supply for railway wheels, which would also add to supply security. It advised Comsteel that it would be reducing its purchase volumes and negotiated with Comsteel about an amount of wheels that would fit in with Comsteel's shift pattern and logistics arrangements. Despite this, Rio Tinto did continue to engage with Comsteel with a view to exploring other business and procurement opportunities.

Rio Tinto undertook a tender process in April 2017 for the balance of its railway wheel requirements, during which it considered various potential suppliers, including several from China which were offering similar prices. Comsteel was not included in the tender process as the purpose was to identify a second supplier. Masteel was selected as the preferred supplier. Rio Tinto provided the verification team with high level information on tender process, details of the volume agreed with Comsteel and the estimated proportion of requirements to be sourced from other suppliers (tab GP-4 of the verification work program at **confidential attachment 1**). Rio Tinto said that Masteel treated the company as a strategic customer.

Rio Tinto stated that despite its decision to use a second supplier, it continued to work with Comsteel on regaining the volume it had lost and that Rio Tinto had made no minimum volume commitment to Masteel.

### 4.4 Wheel failures

Rio Tinto said that it had had nine incidents of Comsteel wheel failures in 2016 involving the cracking or shattering of the wheel rims. The company said that it had worked with Comsteel to minimise the risk of further problems by removing the wheels from service earlier.

Rio Tinto stated that it had not had any problems with Masteel wheels.

### 4.5 Packaging

Rio Tinto said that it had worked with Masteel to improve the packaging arrangements for the imported wheels and reduce manual handling. It said that this initiative had been

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driven by a number of safety incidents and that it had become frustrated with requests to Comsteel to improve its packaging, which had not been met with any response.

### **4.6 Comparison of Masteel and Comsteel wheels**

Rio Tinto stated that all the railway wheels it purchases meet the micro-alloy AAR D specification and are quite similar. It stated that both the Masteel and Comsteel wheel adequately meet the specifications required by Rio Tinto, although the Masteel wheels were exhibiting a slightly better wear rate than the Comsteel wheels.

### **4.7 Submission**

Rio Tinto said that, in its submission to the investigation, it would provide more details on the tender process conducted in 2017 and discussions with Comsteel around packaging.

## 5 RECOMMENDATION

Subject to further inquiries, the verification team is of the opinion that for the goods imported pursuant to the contract between Masteel and Rio Tinto during the investigation period, Masteel was both the exporter and the importer.

The verification team considers that:

- the goods have not been exported to Australia otherwise than by the importer; and
- the goods have not been purchased by the importer from the exporter.

Therefore, the export price for the imports cannot be established under s.269TAB(1)(a) or (b) of the *Customs Act 1901* (the Act).

Subject to further inquiries in relation to these shipments, the verification team recommends that the export price for the imported goods be established under s.269TAB(1)(c) of the Act, having regard to all the circumstances of the exportation. The verification team recommends that the export price be established using the agreed DDP price between Masteel and Rio Tinto, less transport and other costs arising after exportation.



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**6 ATTACHMENTS**

**Confidential Attachment 1**

Verification Work Plan