

**EMAIL RECEIVED ON 9 JUNE 2018 FROM PERCIVAL LEGAL,
CONSULTANTS FOR MAANSHAN IRON AND STEEL CO LTD**

Non-Confidential

Hi Mick,

As set out in the response to the exporter questionnaire, what is manufactured and sold into the Chinese domestic market are not *"like goods"* by our client. That is, they are neither *"identical"* nor have characteristics *"closely"* resembling those railway wheels exported to Australia from China to the four end-users in Australia identified by Comsteel in its application.

I note that in the Consideration Report, and in Comsteel's application, certain characteristics of the generic railway wheels being exported to Australia are referred to. Those characteristics purport to narrow the description of the *"goods under consideration"*. This is the wrong way around. The *"goods under consideration"* define what their characteristics are. It is important to reiterate that the definition and scope of *"like goods"* under the WTO Anti-Dumping Agreement and jurisprudence tends to be the narrowest among all of the other WTO rules where the term *"like goods"* is used. In a dumping investigation, an assessment of *"dumping"* and *"injury"* must be based on *"like goods"*. *"Like goods"* are those either *"identical"* or *"having characteristics closely resembling"* the *"goods under consideration"*. Thus, even directly competitive or substitutable goods are not necessarily *"like goods"* as they may not have *"characteristics closely resembling"* the *"goods under consideration"*. Regard, therefore, needs to be had to WTO jurisprudence that precludes the widening or narrowing the description of the *"goods under consideration"*. What goods are being exported to Australia, whether they are being exported at dumped or subsidised prices, whether they are causing material injury to an Australian industry producing like goods as those being exported at allegedly dumped and /or subsidised prices is a question of fact. Nothing more.

If those characteristics are wider than the being railway wheels exported to Australia to the four end-users identified by Comsteel in its application for use in the Pilbara to carry iron ore, then what are those characteristics, what railway wheels meet those characteristics, to what uses can they be put (e.g. transport of coal, passengers, etc.), who are the Australian industries requiring such railway wheels and who supplies such wheels to the Australian industry requiring such wheels, either domestically or from overseas and how are those goods in the description of *"like goods"* beyond the *"goods under consideration"* causing material injury and to whom?.

It seems to me that the Anti-Dumping Commission, as an investigation authority, should be investigating these issues instead of merely accepting the claims made by Comsteel at face value and require exporters and end-users to address such claims at substantial unwarranted cost.

Kind regards

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