



Australian Government
Anti-Dumping Commission

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

BHP BILLITON IRON ORE PTY 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**

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PUBLIC RECORD

CONTENTS

CONTENTS	2
1 BACKGROUND	3
2 AUSTRALIAN SALES	3
3 IMPORTS	3
3.1 THE GOODS	3
3.2 VERIFICATION OF IMPORTATION COSTS.....	3
3.3 IMPORT LISTING.....	4
3.4 THE IMPORTER	4
3.5 THE EXPORTER.....	4
3.6 RELATED PARTY SUPPLIERS.....	5
3.7 ARMS LENGTH.....	5
4 GENERAL COMMENTS	5
4.1 BHP PROCUREMENT.....	5
4.2 RAILWAY WHEELS	6
4.3 PURCHASE OF RAILWAY WHEELS.....	6
4.4 WHEEL FAILURES	7
4.5 MANUFACTURING PROCESS	7
5 RECOMMENDATION	9
6 ATTACHMENTS	10

PUBLIC RECORD

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 BHP Billiton Iron Ore Pty Ltd (BHP) and other parties associated with the importation of the goods inviting them to cooperate with the investigation. BHP cooperated with the investigation and completed the importer questionnaire and relevant attachments.

2 AUSTRALIAN SALES

BHP uses the imported goods and does not sell the goods.

3 IMPORTS

3.1 The goods

BHP 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) and from the French exporter MG Valdunes (Valdunes).

The imported railway wheels are manufactured to BHP's specifications. A copy of the specifications is contained within the verification work program at **Confidential Attachment 1**.

3.2 Verification of importation costs

BHP purchased the goods from Masteel (China) on DDP incoterms and from Valdunes (France) on FOB incoterms.

The verification team verified the accuracy of the importation costs for wheels from Valdunes by reconciling selected imports to the source documents in accordance with ADN 2016/30.

3.2.1 Exception 1

The verification team identified some minor differences in freight costs associated with some of the earlier shipments of the wheels to BHP. BHP explained that these minor differences were the result of slightly different freight costs between shipments meaning that the overall average cost for freight was slightly different to the sample shipment cost that was initially provided by BHP.

PUBLIC RECORD

Details of the verification are contained within the verification work program at **Confidential Attachment 1**.

3.3 Import listing

BHP confirmed that the import listing extracted from the ABF import database is a complete list of imports of the goods over the investigation period.

BHP provided supply contract documents and invoices for both Masteel and Valdunes (**Confidential Attachment 1**). The name appearing as the purchasing party on the contracts and the invoices, for purchases from both Masteel and Valdunes, was BHP Billiton Iron Ore Pty Ltd.

The verification team calculated the weighted average FOB export prices by supplier at **Confidential Attachment 1**.

3.4 The importer

Railway wheels from Masteel:

During the investigation period BHP purchased the goods from Masteel on DDP incoterms with Masteel being responsible for the payment of all expenses until the goods were delivered to BHP's warehouse in Hazelmere WA. 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.

Railway wheels from Valdunes:

During the investigation period BHP purchased the goods from Valdunes on FOB incoterms. Subject to further inquiries the verification team considers BHP to be the beneficial owner of the goods at the time of importation and therefore the importer as BHP is:

- named on the commercial invoice from its supplier;
- named as the consignee on the bill of lading;
- declared as the importer on the importation declaration to ABF;
- pays for all the importation charges; and
- arranges delivery from the port.

3.5 The exporter

Subject to further inquiries, the verification team considers Masteel and Valdunes to be the exporters of the goods¹.

¹ 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.

PUBLIC RECORD

3.6 Related party suppliers

BHP advised that Masteel is a customer for iron ore and metallurgical coal products. BHP also advised that some of Masteel's iron ore purchases were facilitated through the holding by one of Masteel's subsidiaries of a 10% interest in the Wheelarra customer joint venture. The customer joint venture, which BHP had a 51% interest in, produced and sold iron ore to Chinese steel mills who participated in the joint venture, as part of BHP's broader Western Australian Iron Ore (WAIO) operations. The joint venture ended on 16 March 2018.

While the verification team did not find evidence of the relationship between BHP and the Masteel subsidiary influencing purchasing decisions or prices, further consideration will be given to this issue by the case team following the verification of Masteel's sales information.

3.7 Arms length

In respect of the imported goods purchased by BHP 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
- 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 at the exporter verification visits, the verification team is satisfied that transactions between BHP and its suppliers Masteel and Valdunes are arms length transactions.

4 GENERAL COMMENTS

4.1 BHP procurement

BHP's procurement function is structured into teams based on categories of supply and spend. Rail is the category responsible for the sourcing and contract management activities of all iron ore rail products and services, including the goods, ore cars, and tracks. The team works closely with the rail engineering and operational teams that provide input into forecasting for purchasing, which is validated with the inventory team.

All railway wheels supplied to BHP must meet its specifications as documented in **(Confidential Attachment 1)**.

Comsteel was the sole supplier of railway wheels to BHP until BHP commenced sourcing from Valdunes in the late 1990s. BHP claims that this was due to quality issues with Comsteel wheels that BHP worked together with Comsteel to address. In 2010 BHP commenced a process of qualifying Masteel. Qualification as a supplier to BHP is an

PUBLIC RECORD

extensive process. BHP advised that safety is its most important consideration when qualifying a supplier.

4.2 Railway wheels

Wheel requirements

BHP currently has around [redacted] wagons on its tracks using [redacted] wheels. BHP advised that wheels can be machined multiple times until they have been worn to a minimal thickness and need to be replaced. BHP has a maintenance facility in Port Hedland that machines the wheels.

Purchasing decision considerations

BHP stated that safety and reliability are significant factors considered in its purchasing decisions. The Office of the National Rail Safety Regulator (ONRSR) regulates the safety and reliability of railways operated by the iron ore producers including BHP. Wheel failures could cause derailments of the ore trains in populated areas such as at level crossings.

Further considerations for BHP are the ability to deliver the volumes required, the price of the wheels and the supplier's production process.

4.3 Purchase of railway wheels

BHP stated that it conducts a qualification process for suppliers which includes regular audits of manufacturing processes and quality. All suppliers must be qualified before they are invited to bid in a Request for Tender (RFT) process.

During the investigation period BHP awarded two contracts for supply. Following the meeting, BHP provided contract change forms for the contracts awarded to Valdunes and Masteel, its ore car wheel Request for Quote (RFQ) analysis and RFQ documentation issued to the panel of three contracted vendors. These documents are at **Confidential Attachment 2**.

2016 tender process

BHP estimated a requirement for 6000 railway wheels for the remaining part of the 2017 financial year and commenced a tender process in September 2016. As Comsteel, Masteel and Valdunes were pre-qualified and contracted vendors, they were invited to bid. Once best offers were in, BHP invited all suppliers to an e-auction. The invitation to the e-auction states the Company's "primary objective is to secure parts availability of the wheels and to do so at the lowest sustainable manufacturing cost to the business". Secondary objectives concerning quality and delivery among others are also specified. Valdunes was the successful bidder in this tender. BHP found that while Australian industry could deliver volumes, it could not compete on price.

2017 tender process

In September 2017 a second process commenced for the remainder of the 2018 financial year requirements. This was for a maximum of 10,000 wheels, however suppliers were

PUBLIC RECORD

requested to supply separate quotes for 10,000, 7,000 and 5,000 wheels. BHP approached Masteel, Valdunes and Comsteel for this process. Valdunes was subsequently excluded from consideration because it had changed its steel input sourcing and the new arrangement was being reviewed before its pre-qualification could be reinstated.

BHP advised the verification team that Masteel's quote offered the lowest pricing across all quoted volumes including lower pricing for larger volumes, whereas the Comsteel quote provided a set price regardless of volumes. Masteel was successful in this tender.

4.4 Wheel failures

BHP claimed that its original decision to seek an alternative supplier in the late 1990s was due to quality concerns with wheels supplied by Comsteel. BHP advised that these quality issues were so serious that Comsteel was suspended as a supplier of ore car wheels. The quality issues were eventually addressed but it took over 2 years before Comsteel were re-qualified to supply wheels.

BHP also claimed that there have been more recent quality concerns with 8 broken Comsteel wheels that have been investigated since January 2016. BHP claimed that 5 of these broken wheels were the result of 'subsurface defects'. BHP provided the verification team with further information concerning these wheel failures following the meeting. BHP claimed that the only issues it has had with Masteel wheels were due to thermal cracking which is due to heat from braking, and this has occurred with all wheels across the fleet including those supplied by Comsteel and Valdunes. BHP further claimed that the Comsteel defects were due to its manufacturing process, discussed in section 4.5 below.

The verification visit team inquired if the wheel failures were a factor in the decision to not award the tendered wheel volumes to Comsteel. BHP advised that the tender evaluation processes in 2016 and 2017 had focussed on the comparative price of the products offered by the pre-qualified suppliers. Following the meeting, BHP clarified that quality and the wheel failures had not been a key consideration only because Comsteel were not in contention for the award, because their pricing was not competitive. BHP further clarified this point by explaining that given the seriousness of the Comsteel wheel failures in late 2017 and early 2018, even if Comsteel had submitted the cheapest price for wheels in the most recent tender for FY19 requirements, then it would have been unlikely to have been awarded those volumes due to the ongoing wheel failure issues and quality concerns.

The additional information concerning the Comsteel wheel failures provided by BHP (**Confidential Attachment 3**) will be reviewed further during the course of the investigation.

4.5 Manufacturing process

BHP claimed that the issues it has experienced with Comsteel wheels were due to the manufacturing process used by Comsteel. Both Masteel and Valdunes use a continuous casting process that reduces the amount of inclusions (impurities) in the steel. BHP claims that this has resulted in a better quality of wheel and a longer lifespan for wheels

PUBLIC RECORD

from Masteel and Valdunes. BHP rejects the claim by Comsteel in its application that its wheels have a longer life in comparison to Masteel wheels, and provided the Commission with its own analysis of wear rates that demonstrates a high wear rate for Comsteel wheels. BHP further advised the verification visit team that it had worked with Comsteel to improve the manufacturing process and that due to the way Comsteel wheels are made they believe there is not much more that can be done to reduce inclusions.

PUBLIC RECORD

5 RECOMMENDATION

The verification team is of the opinion that for the goods imported pursuant to the contract between Masteel and BHP during the investigation period, Masteel was both the exporter and the importer.

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

The verification team is of the opinion that for the goods imported pursuant to the contract between Valdunes and BHP during the investigation period, BHP was the importer and Valdunes was the exporter.

The verification team considers that:

- The goods have been exported to Australia otherwise than by the importer;
- have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arms length transactions;

Subject to further inquiries with these exporters, the verification team recommends that the export price for railway wheels imported by BHP from Valdunes can be established under s.269TAB(1)(a) of the *Customs Act 1901*, using the invoiced price, less transport and other costs arising after exportation.

PUBLIC RECORD

6 ATTACHMENTS

Confidential Attachment 1	Verification Work Program
Confidential Attachment 2	Contract change forms and RFQ documentation
Confidential Attachment 3	Wheel failure documentation