

10 July 2018

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Public File

Dear Mr Kenna

Re: Investigation No. 466 - Certain Railway Wheels exported from France and the People's Republic of China – RTIO Submission of 5 June 2018

I. Introduction

Commonwealth Steel Pty Ltd (“Comsteel”) has reviewed the submission by Rio Tinto Limited (RTIO) dated 5 June 2018 concerning Investigation No. 466 on railway wheels exported from the People's Republic of China (“China”) and France.

The RTIO submission contends that dumping and countervailing measures are not required as no dumping and/or subsidisation of the goods exported from China, and no dumping of the goods exported from France, has caused, or threatens to cause, material injury to the Australian industry.

Comsteel rejects RTIO's contention as it is based upon a limited assessment of the impact of the exports on the total Australian market. Similarly, the assessment does not take full account of whether the exports have been at dumped prices, or whether the exports from China have been subsidised.

RTIO has also asserted that Comsteel's production of railway wheels are of an inferior quality to the exported goods – an issue that Comsteel strongly refutes and challenges, as discussed below.

II. Like goods

Comsteel's application for measures described the goods (as in ADN No. 2018/59):

“Forged and rolled steel, high hardness, nominal 38-inch (or 966 mm to 970 mm) diameter, railway wheels, whether or not including alloys.

Axles and other components are excluded from the goods coverage.”

It is not disputed by RTIO that the iron ore railway wheels that it has purchased from Comsteel and from imports (i.e. Maanshan Iron & Steel Co Ltd “Masteel” of China) fall within the description of the goods as detailed in ADN 2018/59. RTIO confirms that the railway wheels it purchases from Masteel are “like goods” to the railway wheels under the goods description above.

In recognising that the railway wheels sourced from Comsteel and Masteel are “alike”, RTIO has attempted to argue that the injury suffered by Comsteel is due to certain ‘quality’ issues that it identified as follows:

- Wheel packaging safety and efficiency concerns;
- Wheel lifespan and wear; and

- Shattered wheel rim events.
 - (i) *Wheel fatigue*

These matters have been identified with Comsteel by RTIO (including prior to, and during, the investigation period). Comsteel has investigated each item with RTIO and responded to the matters raised.

Like RTIO, Comsteel takes product safety seriously. Comsteel has investigated the safety issues raised by RTIO. In July 2016 RTIO experienced a cracked wheel on one of its iron ore carriages. Comsteel assisted with the subsequent independent investigation into the cracked wheel providing technical support to both RTIO and the independent investigator, ALS. A report was prepared and forwarded to RTIO and Comsteel in August 2016. Comsteel concurred with the ALS report and advised RTIO how to mitigate further failures, which involved managing thin rims and potential to include ultrasonic testing.

In communications¹ with RTIO in late August 2016, Comsteel provided RTIO with information on wheel failure modes including thermal fatigue, cyclic loading, and mechanical fatigue. These factors are introduced through operation (i.e. loading and transportation of iron ore carriages) and are cause for concern when not mitigated through regular maintenance and discipline for maintenance intervals during final life. These were contributors in all cases of the RTIO failures and were prevalent due to the backlog of maintenance, budget and operational pressures further reducing maintenance schedule adherence. Maintenance backlog occurred due to rapid growth in fleet numbers and delay installing onsite workshop capacity.

In September 2016, Comsteel met with RTIO personnel and discussed RTIO's budget constraints and a management plan to ensure thin-rimmed high-risk wheels were mitigated whilst deferring maintenance through to next financial year. At this time, RTIO provided a verbal commitment to ongoing volume purchases from Comsteel over the life of the contract, and provided a hardcopy of interim and forecast demand.

In November 2016, Comsteel conducted a Finite Element Analysis ("FEA") on the RTIO LP14 wheels to support RTIO's investigation. This was completed as part of a commitment to value proposition for the supply of wheels by Comsteel with RTIO². The FEA was completed on RTIO wheel design and provided to RTIO.

Comsteel notes RTIO's submission that no further wheel failures have occurred since 2016. RTIO has ensured a mitigation strategy and a suitable maintenance strategy has prevented further failures from occurring with the railway wheels in service.

Comsteel has actively responded to the wheel fatigue incident identified in 2016. Comsteel assisted in identifying the reasons for the failures and has recommended suitable strategies with RTIO to ensure regular maintenance or non-destructive testing to prevent further incidents.

RTIO claims that it has not experienced any "rim shattering or similar event" using imported Masteel wheels. Comsteel would highlight that the wheels sourced from Masteel of similar age of those experiencing operational induced failures are likely to be of a standard C grade material, which ultimately experiences reduced life due to reduced wear characteristic. The stress concentration would be shifted lower due to the wear profile. Further the Micro C variants are not as sympathetic to subsurface fatigue.

¹ Email to [name] RTIO, 29 August 2016.

² Equivalent FEA Reports cost up to \$20k.

(ii) Packaging

The safety concerns associated with wheel packaging were first raised with Comsteel in December 2017. This issue was some eight (8) months after the decision to change the contract terms with Comsteel. Comsteel was involved in communications with RTIO to resolve the issue with controls around daily procedures and safe work methods. Comsteel conducted a site visit to review alternate packaging options. Comsteel subsequently revised packaging pricing and advised RTIO that it was not economic for Comsteel to bear the additional cost. RTIO indicated no additional compensation for increased packaging specification.

In March 2018 Comsteel received a letter from RTIO requesting urgent attention to packaging for supplied wheels. Comsteel acknowledged receipt of the letter and contacted [name] at RTIO. Comsteel agreed a process with RTIO that involved the collection and re-use of Masteel bobbins (not returned by RTIO to Masteel) for supply of Comsteel wheels in RTIO-accepted packaging. In April 2018, Comsteel met with RTIO representatives that confirmed acceptance of Comsteel's response to packaging concerns.

Comsteel has worked with RTIO to address its concerns about the supply of the goods with adequate packaging to address RTIO's safety concerns. The resolution to the issue was undertaken in an urgent and systematic manner. The external packaging of the goods for transportation and storage does not impact the performance of the railway wheels. RTIO's packaging concerns therefore do not relate to the goods themselves (as packaging is not considered to be an intrinsic performance criteria for "the goods" under investigations) and cannot be contrasted as impacting the performance of railway wheels supplied by Comsteel to RTIO.

Comsteel refutes RTIO's contention that the injury experienced by Comsteel is due to the packaging and not the dumping of the railway wheels themselves. Comsteel offers many differing packaging solutions to meet customer's needs, for which both the existing and previous method was designed in conjunction with RTIO.

(iii) Conclusion – like goods

The matters raised by RTIO concerning fatigue and packaging associated with the like goods, whilst important from a customer safety perspective, are not integral to the performance of the goods the subject of investigation.

III. Export price

RTIO submits that where it is not the importer of the goods that the export price should be determined at the delivered duty paid ("DDP") price paid by RTIO that includes "transport and other costs arising after exportation". It is argued by RTIO that these additional costs are paid by RTIO either directly or indirectly and are not borne by Masteel.

When comparing the normal value and export price for fair comparison purposes it is the Commission's practice to do so at ex-factory level. Hence the export price for goods supplied by Masteel is calculated back to the ex-factory point (and not the DDP price) to determine relevant dumping margins.

IV. Normal value

RTIO contends that the basis for normal value as included in Comsteel's application for anti-dumping and countervailing measures was 'unreasonable'.

The Commission noted in Consideration Report No. 466 that Comsteel's basis for estimating normal values in China for the goods was reasonable given the existence of a particular market situation that renders domestic selling prices unreasonable for normal value purposes under subsection 269TAC(1).

In assessing *prima facie* normal values for initiation purposes, the Commission altered Comsteel's data for SG&A and profit slightly.

Preliminary Affirmative Determination (“PAD”) No. 466 imposing securities relied upon information sourced from the exporters in determining normal values in China and France. In the absence of domestic sales in China of like goods, the Commission’s determination of normal value for Masteel is based upon Masteel’s costs of production, SG&A expenses and profit, with steel input costs in France incorporated into Masteel’s production costs (due to the particular market situation allegation).

The Chinese normal values determined in PAD 466 therefore reflect information obtained from Masteel’s exporter questionnaire response and are considered by the Commission to be more representative than the *prima facie* information provided in Comsteel’s application.

V. Material injury and causation

Comsteel has reviewed RTIO’s claims that the injury suffered by Comsteel from a change in supply away from Australian production to imported railway wheels from China and France cannot be due to the dumping and subsidisation of the railway wheels from China and the dumping from France.

Comsteel rejects RTIO’s claims.

To address RTIO’s claims in an orderly fashion it is appropriate to commence with the RTIO assertion that the Australian market for the goods is in decline. This is not the case. With the Roy Hill iron ore mine now in operation, and increased maintenance wheels required for new carriage purchased now requiring maintenance by the industry, the Australian market for railway wheels has increased from approximately 7,000 units in 2013 to approximately 23,000 units in 2017 with current estimates of peaks in 2018 of 32,000. The Australian market is clearly not experiencing a contraction as viewed by RTIO.

Comsteel has the production capacity available to it to supply the whole of the Australian market’s demand as required. Comsteel does not have so-called ‘limited’ capacity to supply the goods at the current time or any time in the future.

RTIO also alleges that Comsteel has ‘outdated production processes and poor process efficiency’ when contrasted with Masteel. Comsteel similarly rejects this assertion and points to its long-established position as a reputable supplier of quality railway wheels across many varied railway end-uses that is cost-competitive when compared on a fair basis.

Throughout the contract period for RTIO 2015 to 2017 Comsteel offered discounts of combined xx% a reflection of both economies of scale based on volume increases and continuous improvement and capital investment programs. The xx% discount was reflected in the Contract variation No.1 and formal offers proposed in Q1 2017.

Competition on a fair basis is evidenced in the comparison of the dumping margins determined for goods exported from France, with a dumping margin of 28.2 per cent determined in PAD 466. Prior to the emergence of Masteel as a supplier on the Australian market, Valdunes was a supplier at prices that were competitive with Comsteel. Following Masteel’s takeover of Valdunes, export prices from France declined sharply to levels the Commission has determined the 28.2 per cent margin applies.

Comsteel strongly refutes RTIO’s claim that it has not adapted to changing market dynamics. Comsteel is a recognised global leader in the production and supply of quality railway wheels. Comsteel has responded to RTIO’s claims concerning the quality of wheels supplied locally and has identified that the cause for the failure in the wheels is not as a result of Comsteel’s production processes or raw materials used.

Comsteel further notes that RTIO has argued that it has switched to sourcing from Masteel so that it can forge strong relationships with customers based upon ‘reciprocal commercial arrangements’. Comsteel submits that reciprocal arrangements are a commercial decision for RTIO provided that the exported goods are priced fairly and do not benefit from subsidies that afford the Masteel goods an unfair advantage.

Comsteel does not consider that RTIO's representations that attribute injury to the Australian industry to factors other than dumping and subsidisation withstand scrutiny. Should RTIO's assertions be correct that Masteel supplies '*improved alloy wheels [that] have a slower rate of wheel wear than the applicants goods*', it would be expected that there would be no need for Masteel to supply quality wheels at dumped or subsidised prices. This is certainly not the case, and Masteel has exported at dumped and subsidised prices that have undercut Comsteel's selling prices resulting in lost sales volume and market share, and reduced profit and profitability.

The material injury sustained by Comsteel as evidenced in 2017 is as a direct consequence of the increased volumes of railway wheels at dumped and subsidised export prices from China and dumped prices from France. Anti-dumping measures are required to ensure that future exports from China and France are not injurious to Comsteel and that Comsteel can compete with imports on a fair basis.

VI. Closing remarks

Comsteel welcomes the opportunity to comment on RTIO's submission of 5 June 2018. Comsteel rejects the claims and assertions by RTIO that the reasons for RTIO shifting supply away from Comsteel to Masteel are not related to price, but due to non-price factors such as wheel fatigue and wheel packaging concerns.

Comsteel has demonstrated to the Commission that it has the capacity to supply railway wheels in an increasing market (contrary to RTIO's representations that the market is contracting) and that it can supply competitively priced railway wheels from local production. Comsteel reiterates its claims made in its application that it has suffered injury that is material due to lost sales volumes, reduced market share, price undercutting and price suppression resulting in reduced profits and profitability in the investigation period, that is a direct consequence of increasing exports at dumped and subsidised prices from China, and at dumped prices from France.

The claims relating to packaging, wheel failures, capital build and capacity were not raised as issues in relation to the change in contractual terms between Comsteel and RTIO. The injury that has been suffered has been as a direct consequence of dumped and subsidised exports from China and France to Australia.

The publication of PAD 466 and the imposition of securities is an important acknowledgment that Comsteel's allegations contained in its application appear reasonable and that there exist reasonable grounds for the publication of notices under subsection 269TG(1) and 269TJ(1).

Comsteel looks forward to further assisting the Commission with its enquiries throughout the conduct of Investigation No. 466.

If you have any questions concerning this submission, please do not hesitate to contact either Mr Lindsay Reid on (02) 4974 0416 or Comsteel's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



Lindsay Reid
General Manger