

18 July 2018

Mr Michael Kenna
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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 – BHP Billiton Iron ore Pty Limited Verification Visit Report

I. Introduction

I refer to the BHP Billiton Pty Limited ("BHP") verification visit report ("the Report") recently placed on the electronic public record (EPR Document No. 18).

The Report identifies certain matters that Commonwealth Steel Pty Ltd ("Comsteel") seeks to address with the Anti-Dumping Commission ("the Commission").

The Report confirms that BHP has purchased imported iron ore railway wheels from the Chinese exporter Maanshan Iron & Steel Co Ltd ("Masteel") and the French exporter MG Valdunes ("Valdunes").

Comsteel notes that BHP is associated with the party that facilitated the importation of the iron ore railway wheels from Masteel. The associated party was Wheelara in which a Masteel subsidiary company has a 10 per cent ownership, along with BHP's 51 per cent ownership. The joint venture ended on 16 March 2018. The Commission will further investigate whether the relationship affected the arms-length nature of transactions between the exporter and BHP.

II. Comsteel supply to BHP – 2017 tender

The Report confirms that Comsteel has been a supplier of iron ore railway wheels to BHP "until BHP commenced sourcing from Valdunes in the late 1990s". Masteel was requested to qualify for supply in 2010.

During the investigation period, BHP conducted two tenders for supply of iron ore railway wheels. The three suitable suppliers – Comsteel, Masteel and Valdunes – were required to engage in an e-auction. Comsteel notes BHP's requirements as reflected in the verification report, namely:

"primary objective is to secure parts availability of the wheels and to do so at the lowest sustainable manufacturing cost to the business.

And,

Secondary objectives concerning quality and delivery among others also specified.
(emphasis added).

It has been Comsteel's understanding that the primary objective in the sourcing of iron ore railway wheels by BHP has been price. This consideration is borne out by the awarding of the contract to Masteel as its "quote offered the lowest pricing across all quoted volumes including lower pricing for

larger volumes". Please refer to Confidential Attachment 1 – *commercial sensitive material confirming basis for award of tender*).

The successful tender by Masteel was based on the lowest price – confirming that Comsteel was undercut with the offer by Masteel.

III. Quality concerns

Section 4.4 of the BHP Report identifies two quality matters relating to the quality and performance of Comsteel supplied iron ore railway wheels to BHP.

In the first incident that is referred to as having occurred in "*the late 1990s*" it is alleged that Comsteel was "*suspended as a supplier of ore car wheels*". It is further stated that "*The quality issues were eventually addressed but it took over 2 years before Comsteel were re-qualified to supply wheels.*"

Comsteel rejects BHP's assertions that it was suspended as a supplier of the iron ore railway wheels due to this alleged non-conformance and that Comsteel was not re-qualified for a period of over two years. This is not the case. Comsteel's records confirm continuous supply of iron ore railway wheels throughout the entire decade referred to. Given Comsteel's long standing relationship with BHP since the beginning of its operations, it is disappointing that a large and reputable company with the position that it enjoys can openly engage in tactics that lack integrity in order to save dollars at the expense of a reliable and high quality Australian manufacture of railway wheels.

In respect of the second, recent incident, Comsteel acknowledges that BHP has raised concerns surrounding 'subsurface defects' that have been investigated since January 2016. Comsteel reiterates with the Commission that for both of the largest customers on the Australian market there has been deferred maintenance for ore car fleets due to major workshop capacity investments being delayed. Both customers accepted higher risk maintenance and operating tactics to delay expenditure, in order to improve cash flow positions. The quality performance of near end-life ore railway wheels sourced from Comsteel should not be used to justify delayed maintenance expenditures by the two largest customers in the industry.

The performance of the Comsteel wheels was first highlighted with Comsteel as an issue concerning 'subsurface defects'. BHP first brought the matter to the attention of Comsteel as a 'quality' issue by phone call on 28 June 2018 – approximately 72 days post the commencement of the current investigation. The [*commercially sensitive advice re non-conformance of wheels*] is included at Confidential Attachment 2.

As with BHP's standard practice, Comsteel will be asked to review the issues outlined in the 'non-conformance report' ("NCR") and develop a plan as to how they will be addressed and resolved. Comsteel's written response to the NCR will be circulated for review, and subsequently a meeting between Comsteel and BHP technical representatives will be scheduled. BHP is yet to issue an NCR as at 16/07/2018.

This resolution process is continuing at the present time.

Comsteel notes the Commission's inquiries of BHP at the verification visit concerning the basis for the awarding of the tender to Masteel. At the verification meeting BHP "*advised that the tender evaluation processes in 2016 and 2017 had focused on the comparative price of the products offered by the pre-qualified suppliers.*" Post the meeting, BHP further advised "*that quality and wheel failures had not been a key consideration only because Comsteel were not in contention for the award, because their pricing was not competitive.*"

The comments made by BHP confirm that price was the key factor in the awarding of contracts in 2016 and 2017 to Masteel. Price was the only concern to the customer as the alleged subsurface defects were contributed to by the deferred maintenance expenditures on ore carriage wheels due to budget constraints.

IV. Manufacturing Process

Comsteel refutes the claim that the issues experienced are as a result of Comsteel's manufacturing process. BHP's claim that continuous cast results in lower impurities is incorrect. Both continuous casting processes used by Comsteel and Masteel produce steel of equal cleanliness. The ingot technology is preferred by the world's premium wheel manufacturers that manufacture wheels for the high speed passenger market.

Comsteel notes that no development work has been undertaken in conjunction with BHP since 1998 when the new specification was formulated. Further, Comsteel was reticent from that period as to disclosure of details in any open forum due to the fostering and development work undertaken between BHP and Valdunes, and subsequently with Masteel.

Comsteel has continued to develop and implement a program of continuous improvement for the "like goods" refining ingot design, raw material inputs, refractories, steel making practices and forging dies to produce cleaner wheels. It should be noted at all times the wheels supplied have conformed to the BHP specification supplied.

Further through this time Comsteel has gained EN certification for producing wheels which is considered the benchmark for product quality requiring the highest standards of steel cleanliness.

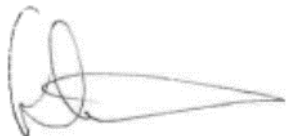
V. Conclusions

Comsteel welcomes BHP's acknowledgment that the awarding of contracts for the supply of iron ore railway wheels in 2016 and 2017 was primarily determined on the basis of 'price'. Comsteel is a recognized supplier of quality railway wheels (including the goods under consideration) and the claimed quality issues that have been identified are secondary in nature to the primary consideration (and can also be linked to the deferred capital expenditure on maintenance in order to meet budget restraint initiatives).

Comsteel does not consider it is reasonable for BHP to assert that the quality of locally produced iron ore carriage wheels was a factor in the decision to award tenders in 2016 and 2017 when the primary consideration for the successful tenderer was price.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4974 0346 or Comsteel's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



Lindsay Reid
General Manager