



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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## Request for Further Information

### People's Republic of China



**中华人民共和国商务部**  
Ministry of Commerce of the People's Republic of China

**Product:** Railway wheels

**From:** People's Republic of China

**Period of Investigation:** 1 January to 30 December 2017

**Response due by:** 20 August 2018

**Investigation case manager:** Mick Kenna

The Government of China ("GOC") refers to the request for further information made by the Anti-Dumping Commission ("the Commission") with respect to *Investigation No. 466 – Dumping and Subsidisation Railway Wheels exported from China (DCV) and France (D)* in its letter dated 7 August 2018.

The request was as follows:

***Investigation No. 466 – Dumping and Subsidisation Railway Wheels exported from China (DCV) and France (D) – Request for further information***

*On 18 April 2018, following an application by Commonwealth Steel Company Pty Ltd (Comsteel), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated an investigation into the alleged dumping and subsidisation of certain railway wheels exported to Australia from the People's Republic of China (China) and the alleged dumping of*

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*certain railway wheels exported to Australia from France.*

*The Commission is currently assessing the matters raised in the application to determine if there are reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice.*

*In the course of this investigation, the Commission reviewed information provided by Maanshan Iron and Steel Co Ltd (Masteel), a Chinese exporter of the goods, and would like to request that the Government of China provide information regarding the below grants that have been identified as having been received by Masteel during the investigation period:*

**TABLE 1**

<b>Category</b>	<b>Program number</b>	<b>Program</b>
<b>[CONFIDENTIAL TEXT DELETED – identification of grant programs in which Masteel is said to have participated]</b>		

The Commission requested that the Government of China provide information on each program by 20 August 2018, by way of responding to the questions 1 to 8 in its letter with respect to the “grants” set out in Table 1.

The GOC provides its response to the Commission’s further request for information as now follows.

**GOC’s introductory comments**

**The GOC has significant concerns regarding the SGQ.**

**In particular, the GOC is concerned by the Commission’s decision to expand the scope of the investigation at this late date, and without any form of prior consultation with the GOC. In particular, the Commission has requested a great deal of information relating to [CONFIDENTIAL TEXT DELETED – number] additional subsidy programs. This is despite the fact that, as will be discussed, the alleged programs only provided negligible financial contributions.**

**Article 13.2 of the *Agreement on Subsidies and Countervailing Measures* (“SCM Agreement”) provides as follows:**

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*Furthermore, throughout the period of investigation, Members the products of which are the subject of the investigation shall be afforded a reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.*

Similarly, Article 7.10.6 of the *China-Australia Free Trade Agreement*, provides:

*Throughout the investigation, the other Party shall be afforded a reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.*

Article 13.4 of the SCM Agreement states that:

*The Member which intends to initiate any investigation or is conducting such an investigation shall permit, upon request, the Member or Members the products of which are subject to such investigation access to non-confidential evidence, including the non-confidential summary of confidential data being used for initiating or conducting the investigation.*

Respectfully, such consultation has not taken place with regard to these additional programs. The only form of consultation has been the provision of the SGQ, which requests broad and what would appear to be largely irrelevant information from the GOC. Prior to the provision of the SGQ, the Commission has not approached the GOC with the intention of “clarifying the factual situation and to arriving at a mutually agreed solution” nor has the Commission “provided non-confidential evidence” or a “non-confidential summary of confidential data” that it is using for the conduct of this investigation. Failure to provide such information has meaningfully impacted the GOC’s ability to answer the Commission’s concerns in a fulsome manner.

The GOC notes that the SGQ refers to the identification of these additional programs as being based upon disclosures by the GOC or by the cooperating exporter, or as otherwise identified by the Commission. However, the Commission has not identified what evidence has resulted in the Commission’s appreciation of the supposed existence of these programs. This disclosure would allow the GOC to better understand the Commission’s position, and would allow the GOC to clarify the factual situation, in an efficient and timely manner. Such an outcome would be vastly preferable, to the current situation, in which the GOC has been directed to answer incredibly broad questions in a limited time frame.

The GOC notes that the SGQ refers to the “additional programs” as “countervailable subsidy programs” and requests that the GOC provide information regarding any “benefit” conferred under such programs. This language is lawfully meaningful, and could be taken to indicate that the Commission has, prior to the issuance of the SGQ, formed a view that these programs (a) exist; and (b) are “countervailable”, and that (c) financial contributions provided under such programs, if any, are a “benefit”. This

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is gravely concerning to the GOC, particularly in light of the lack of consultation and the inability or unwillingness of the Commission to indicate what evidence, if any, such findings are based upon.

1. Please provide any amendments to law, regulations or policy that makes a particular program redundant for this investigation. Provide all documentary evidence.

The GOC has conferred with Maanshan Iron and Steel Co Ltd (hereinafter referred to as Masteel) and has been informed by Masteel that it has provided information regarding financial contributions that may have been received from any level of the GOC.

The GOC understands that the abovementioned financial contributions reported by Masteel in relation to the period of investigation were, in their totality, negligible within the meaning of that term as it is defined in Section 269TDA(16) of the *Customs Act 1901* (Cth). Furthermore, the GOC understands that the value of these alleged financial contributions in the hands of Masteel as recipient has been verified by the Commission. Accordingly, the GOC respectfully submits that the Commission now has sufficient information to correctly determine that, even on the assumption that these financial contributions are countervailable subsidies, that the subsidy margin for the respondent overall is negligible, and that any subsidy investigation should be terminated in accordance with Section 269TDA of the *Customs Act 1901* (Cth). The GOC makes this assertion based on these propositions:

- (a) the GOC has only responded on behalf of known or potentially cooperating exporters, namely Masteel and TYHI Railway Transit Equipment Co., Ltd, and the questions in the SGQ relate only to the former;
- (b) as a matter of both law and fact there are no “*Part C-1: Provision of goods*” subsidies; and
- (c) even if the alleged subsidies which the GOC reported upon in its Government Questionnaire response, and those as have been reported by Masteel, were to be found to be countervailable subsidies, the total benefit did not exceed 2% of the export value of the goods concerned in the investigation period.

Again, the GOC does not accept that any financial contribution provided pursuant to

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any of the additional programs is a “benefit” and disputes the usage of that term within the SGQ. Additionally, given the insignificant nature of the financial contributions reported by Masteel, the GOC does not believe they would have any impact on the production and sale of the railway wheels concerned during the period of investigation. Nor does the GOC consider it necessary or efficient to provide the detailed information requested by the Commission in light of the *de minimis* nature of any support Masteel may have received pursuant to them.

2. Provide full details of the programs including the following.
- (a) policy objective and/or purpose of the program.
  - (b) legislation under which the subsidy is granted.
  - (c) nature or form of the subsidy.
  - (d) when the program was established.
  - (e) duration of the program.
  - (f) how the program is administered and explain how it operates.
  - (g) to whom and how is the program provided.
  - (h) the GOC department or agency administering the program.
  - (i) the eligibility criteria in order to receive benefits under the program.

**Please refer to the GOC’s response above at question 1.**

3. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

**Please refer to the GOC’s response above at question 1.**

4. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific

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files, databases, budget authorizations, etc.) regarding the program.

**Please refer to the GOC's response above at question 1.**

5. Describe the application process (including any application fees charged by the government agency or authority) for the program. After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

**Please refer to the GOC's response above at question 1. The Commission is respectfully requested to refer to any factual information that may have been provided by Masteel.**

6. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.
- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.
- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.
- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.
- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

**Please refer to the GOC's response above at question 1. The Commission is respectfully requested to refer to any factual information that may have been provided by Masteel.**

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7. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2013 to 31 December 2017.

**Please refer to the GOC's response above at question 1. The Commission is respectfully requested to refer to any factual information that may have been provided by Masteel.**

8. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?


**Please refer to the GOC's response above at question 1. The Commission is respectfully requested to refer to any factual information that may have been provided by Masteel.**

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**DECLARATION**

The undersigned certifies that all information supplied herein in response to the questionnaire (including any data supplied in an electronic format) is complete and correct to the best of his/her knowledge and belief.

<p>_____</p> <p>Aug.-19-2018</p> <p>_____</p> <p><b>Date</b></p>	<p></p> <p>_____</p> <p><b>Signature of authorised official</b></p>
	<p>Wang Jianfeng</p> <p>_____</p> <p><b>Name of authorised official</b></p>
	<p>Deputy Director</p> <p>_____</p> <p><b>Title of authorised official</b></p>