

24 September 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 – Rio Tinto Iron Ore Submission date 5 September 2018

I. Summary

Commonwealth Steel Company Pty Ltd ("Comsteel") has examined Rio Tinto Limited's ("Rio Tinto") submission dated 5 September.

Comsteel rejects the Rio Tinto assertions that material injury sustained by the Australian industry relates to "non-price" matters for the iron ore railway wheels ("the goods") the subject of investigation. Comsteel reaffirms its position that it produces and sells like goods as required by Rio Tinto and that it has lost sales at Rio Tinto and other iron ore railway wheel customers due to the dumped exports from the People's Republic of China ("China") and France. Material injury sustained by the Australian industry (i.e. Comsteel) can be directly attributed to the dumping and subsidization of exports from China, and dumping from France.

Comsteel anticipates that normal values for the goods will be determined under subsection 269TAC(2)(c) using the methodology prescribed by the *Customs (International Obligations) Regulations 2015* 43, 44 and 45 to reflect a market selling price for the goods. This methodology is required where it is established that domestic selling prices are unsuitable due to the influence of the Government of China on inputs used in the manufacture of the goods such that the selling prices of the goods are not determined on a competitive basis.

Comsteel considers that the imposition of the securities on 18 June 2018 following the publication of the preliminary affirmative determination ("PAD") was required to prevent further injury to the Australian industry.

II. Non-price matters

Comsteel considers it appropriate to provide comments in relation to matters raised by Rio Tinto. In referencing a Report on ore wagon wheel rim cracking by Marais Consulting Engineers dated 17 July 2017. It is further stated that "*The Applicant has seen a near-final version of the Marais Report*". Comsteel has no record of receiving the Marais report. Comsteel can only reference a request for information relating to the *preparation* of a report by Marais Consulting Group.

It is apparent from the Rio Tinto submission that it is of the view that the instances of rim shattering are linked to the supply of wheels by Comsteel. Rio Tinto states that the wheel fatigues "*were contributed to, in a material way by the quality (or lack thereof) of the Applicant's Goods and that this was a relevant factor in Rio Tinto's decision to seek an alternative source of supply*". Rio Tinto further claims that the "*ongoing quality issues have therefore caused or contributed to the alleged material injury suffered by the Australian industry*". Rio Tinto is therefore arguing that the wheel fatigues are due to the quality of the wheels supplied by Comsteel.

It is noted in Rio Tinto's submission that the independent investigation by ALS Industrial in August 2016 (with two subsequent reports in November 2016 and January 2017) identified the operational factors (that includes the maintenance, budget and operational pressures) as contributing factors to the wheel fatigue issues.

It is therefore evident that the independent analysis did not isolate Comsteel's wheel composition as the sole factor associated with wheel rim cracking. Hence it cannot be reasonably concluded that the manufacturing process of Comsteel caused the wheel rims to crack.

Rio Tinto has stated that following the release of the Marais Report that it has requested Comsteel to demonstrate Comsteel meets the latest microcleanliness standards of the goods as per AAR M-107/M-208 requirements. Comsteel does meet the AAR Standard as evidenced by the Quality Assurance Program Certification at Non-Confidential Attachment 1.

Comsteel respectfully disagrees with Rio Tinto's submissions concerning the rim shattering events and the quality of Comsteel wheels versus imported wheels from Masteel. The latter's goods have not been in use for the duration and individual lifespan of like goods supplied by Comsteel – it is therefore not reasonable to form conclusions as to quality when the performance criteria are not comparable.

Rio Tinto also disputes Comsteel's comments about the wear rate of the imported Masteel wheels and continues to argue that Masteel wheels are of a higher quality than the like goods supplied by Comsteel. There exists an obvious flaw in this argument – why is there a need to undercut the local Australian industry supplier (in a market where raw material costs increased across the investigation period)? If the quality of the imported goods is superior to the like goods sourced in Australia, why export at injurious prices that do not recover the fully-absorbed cost-to-make-and-sell (CTMS) those goods? The asserted advantages of economies of scale and "other operational advantages" do not deliver advantages as reflected in the price undercutting that has occurred (up to 30 per cent).

Comsteel has addressed the issue of wheel safety and packaging in its submission dated 10 July 2018. No further additional comments from Comsteel can be made.

In closing on the issue of non-price matters, Comsteel rejects the comment by Rio Tinto that Comsteel does not prioritise workplace health and safety as an important supplier obligation. Comsteel's response to the packaging of the goods and the importance it places in workplace health and safety is evident in the swift response and action to address identified shortcomings¹.

III. Masteel's normal value

Rio Tinto has contended that the Commission must consider the 'comparative advantage' that Masteel achieves through its economies of scale and other operational advantages. As the Commission will utilize Masteel's costs as recorded in its verified accounts, the conversion costs that result from higher scale and lower labour rates will be evident in the exporter's CTMS.

The exporter's actual costs, therefore, will be reflected in the constructed normal value for Masteel (with the exception of raw material input costs that are identified as having been influenced by the Government of China).

IV. PAD and imposition of provisional measures

Comsteel is on record as supportive of the PAD and the imposition of provisional measures. In the investigation period, Comsteel's sales volumes of the goods declined substantially, whereas imports of the dumped (and subsidized goods) increased.

The provisional measures are required to address the further lost sales volumes that would unquestionably follow given the size of the dumping margins determined and the level of price undercutting experienced by Comsteel.

¹ As detailed in Comsteel submission of 10 July 2018, EPR Document No. 20.

Comsteel opposes the withdrawal of the provisional anti-dumping measures. The measures are warranted to prevent further injury that is material from occurring.

V. Closing Remarks

Comsteel acknowledges the representations made by Rio Tinto concerning wheel fatigue (including comments relating to the production processes of ingot casting and continuous casting), workplace safety concerns, Masteel's apparent comparative advantage, and the PAD and imposition of securities.

Notwithstanding the matters raised by Rio Tinto, Comsteel is a manufacturer of like goods to the imported iron ore railway wheels used in Australia by the four iron ore producers. The like goods manufactured by Comsteel, whilst perhaps not being identical in all respects, possesses the same essential characteristics as the imported goods in terms of physical, commercial, functional, and production likeness.

Comsteel is an AAR accredited supplier of the goods and supplies iron ore railway wheels to the specifications of the end-user.

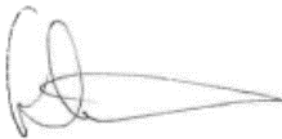
Comsteel manufactures like goods to the imported goods that have secured sales at the expense of Comsteel and the imported goods have been priced to undercut the selling prices of Comsteel for the like product.

Comsteel reaffirms its position that the imposition of provisional measures is important to ensure the Australian industry does not experience further material injury from the dumped exports from China and France. In the absence of measures, the Australian industry's sales volumes would inevitably decline further from the levels evident in the investigation period.

Comsteel note that Rio Tinto continue to purchase from Comsteel at a rate in excess of the contracted minimum quantity during the investigation (refer Confidential Attachment 2).

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