Comsteel

31 October 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 – Response to Statement of Essential Facts

I. Executive Summary

As you are aware, Commonwealth Steel Company Pty Ltd ("Comsteel") is the applicant company that has requested anti-dumping and countervailing measures on iron ore railway wheels ("the goods") exported from the People's Republic of China ("China") and anti-dumping measures on exports of the goods from France. On 11 October 2018, the Anti-Dumping Commission ("the Commission") published Statement of Essential Facts No 466 ("SEF 466") detailing its preliminary findings concerning exports of the goods to Australia.

The Commission's findings include a proposal to recommend to the Minister for Industry, Science and Technology ("the Minister") that a dumping duty notice be published in respect of the goods exported from China and France.

The Commission's investigations have established:

- The locally produced iron ore railway wheels are like goods to the exported railway wheels from China and France;
- There is an Australian industry manufacturing the goods in Australia that consists of Comsteel;
- The dumping margins for exporters in China and France were assessed as follows:

Country	Exporter	Dumping Margin
China	Maanshan Iron & Steel Co Ltd	19.0 %
China	Uncooperative and all other exporters	19.0 %
France	MG-Valdunes	37.2 %
France	Uncooperative and all other exporters	37.2 %

- Subsidy margins for Chinese exporters were as follows:

Country	Exporter	Subsidy Margin
China	Maanshan Iron & Steel Co Ltd	0.6 %
China	Uncooperative and all other exporters	0.6 %

- The Australian industry has suffered material injury that has been caused by exports of the goods at dumped prices from China and France; and
- It is considered that future exports of the goods from China and France may be at dumped prices and that continued dumping of the goods from China and France may continue to cause material injury to the Australian industry.

Comsteel welcomes the Commissioner's proposed recommendation to the Minister to impose anti-dumping measures on iron ore railway wheels exported from China and France. Comsteel concurs with the Commissioner's findings that exports of the goods were at dumped prices and that the Australian industry has suffered material injury caused by the dumping. Comsteel further agrees with the Commissioner that anti-dumping measures are required to prevent further injury to the Australian industry.

II. Like goods

Comsteel supports the Commission's finding that "*the railway wheels manufactured by Comsteel during the investigation period meet the definition of like goods*." Comsteel manufactures iron ore railway wheels to the specifications of the iron ore producers for use in iron ore rail carriages. The Commission has correctly concluded that iron ore railway wheels manufactured by Comsteel closely resemble the goods under investigation and are like goods because[1]:

- *The primary physical characteristics of the imported and the locally produced goods are similar – being of similar shape and dimension, and being made from similar alloy steel;*
- *The imported and locally produced goods are commercially alike as they are sold to common customers;*
- *The imported and locally produced goods are functionally alike as they have the same or similar end-use – to be affixed to railway cars to transport iron ore; and*
- *Despite possible differences in the production process for the primary steel, the imported and the locally produced goods are manufactured in a similar manner – through the forming, rolling and treating of steel sections cut from an ingot or billet*.

Comsteel concurs with the Commission's assessment that the locally produced goods and the exported goods are "alike". The Commission's assessment follows BHP Billiton Limited's ("BHP") contention that the locally produced and exported goods were not alike on the basis that a different manufacturing process (i.e. continuous casting versus ingot casting) was evident, that the composition of the steel was different (i.e. purity and chemical composition), the imported wheels are of a different quality to domestic wheels and, that the difference in quality of the wheels suggested that the locally produced wheels do not function in the same ways as the imported wheels from China and France. Comsteel reaffirms its position concerning BHP's claims (as reflected in Comsteel's submission dated 14 August 2018 – refer EPR Document 036) and agrees with the Commission's findings that "no conclusive evidence" exists in support of BHP's claims and also points to findings in Investigations by independent parties that do not conclude that the quality of Comsteel's railway wheels was the cause of the problems.

III. Dumping investigation

The Commission received completed exporter questionnaire responses from:

- Maanshan Iron & Steel Co., Ltd ("Masteel") of China; and
- MG-Valdunes ("Valdunes") of France.

Masteel and Valdunes were the only exporters of the goods to Australia from China and France, respectively, throughout the investigation period.

(a) Masteel

The Commissioner determined that Masteel does not sell the goods domestically in China, hence, normal values cannot be determined under subsection 269TAC(1) of the *Customs Act*. The Commissioner has therefore determined normal values for Masteel under subsection 269TAC(2)(c) based upon Masteel's cost of production of the goods plus amounts for administrative, selling and general ("S,G&A") costs and an amount for profit.

In constructing normal values and using Masteel's production costs, the Commissioner formed the view "*that costs relating to purchases of the steel raw material for railway wheels during the*

[1] Refer Statement of Essential Facts No. 466, Section 5.5, P.17.

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investigation period contained in Masteel's records do not reasonable reflect competitive market costs." In arriving at this position, the Commissioner found that the Government of China's ("GOC") "*involvement and influence over the steel industry in China has created distortions that mean Masteel's records relating to the production of steel do not reflect competitive market costs. The GOC was able to exert this influence through its directives and oversight, subsidy programs, taxation arrangements and the significant number of SOEs*." The Commissioner further concluded "…*that because of the significance of this influence, the domestic price for major steel production inputs was substantially different to what it would have been in the absence of these interventions. The Commissioner determined that Masteel's records do not reasonably reflect competitive market costs and, therefore, the Minister is not required to work out the cost of production or manufacture of the goods under Regulation 43(2)*."

Following the Commissioner's determination in respect of Chinese domestic prices for steel, an appropriate benchmark price for steel to include in Masteel's normal value was considered. The most appropriate benchmark for steel input costs is that available from the French producer Valdunes. The Commission has verified the steel input cost and it is considered a suitable independent price (on the basis that it is not a purchase price for steel sourced from Valdunes affiliated Chinese manufacturer Masteel).

Comsteel notes the Commission's comments concerning the Valdunes purchase price for steel in France (and whether it is appropriate to adjust for comparative advantages and/or disadvantages). Comsteel anticipates that Valdunes has purchased its steel input from an efficient European steel manufacturer. In order for the Commission to make an adjustment to Masteel's normal value for comparative advantages/disadvantages, a reasonable basis for estimating such cost differences would be required. Comsteel does not consider that any cost differences that may be considered an advantage or disadvantage can reasonably be quantified (let alone be reliably based).

Comsteel therefore does not consider that Masteel's normal value requires adjustment for an asserted comparative advantage.

Comsteel's application for anti-dumping measures alleged that domestic selling prices in China were unsuitable for normal value purposes as a particular market situation for the goods. The Commission's investigations have confirmed the GOC's involvement and influence over the Chinese steel industry has resulted in domestic steel input prices being lower than they otherwise would be. The GOC's intervention has rendered domestic selling prices unsuitable under subsection 269TAC(1) and the Commission has therefore based normal values for Masteel under subsection 269TAC(2)(c) using the exporter's production costs, amounts for S,G&A and profit.

(b) Valdunes

The Commission confirmed that Valdunes did not sell the goods on the domestic market in France during the investigation period. The Commission determined that Valdunes was a cooperative exporter and has therefore determined normal values under subsection 269TAC(2)(c) using:

- The exporter's costs of production;
- Amounts for S,G&A as per the exporter's records; and
- An amount for profit.

Comsteel notes that the Commission has fully verified Valdunes production costs for the goods. This is a relevant and important verification reference as the Commission has used the Valdunes' steel input costs as the benchmark for inclusion in the Masteel constructed cost normal value.

The amounts for S,G&A and profit for Valdunes were determined by reference to costs incurred for the same general category of goods produced and sold domestically by Valdunes in France.

Comsteel notes that the Commission has addressed representations made on behalf of Valdunes concerning adjustments made to reflect actual costs from standard costs. Comsteel understands that it is the Commission's practice to reflect actual costs incurred during the investigation period and therefore the adjustments made are considered to be consistent with the Commission's practice and policy.

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IV. Subsidisation – Masteel

The Commission's investigations confirmed that Masteel benefited from 32 GOC subsidy programs during the investigation period that related to a range of programs including the provision of goods and benefits received in the form of financial grants.

The Commission has determined that the aggregate subsidization margin received by Masteel is 0.6 per cent of the export price of the goods. As this aggregate subsidy amount is less than 2 per cent (i.e. negligible), the Commissioner proposes to terminate the subsidy investigation as it relates to Masteel.

Comsteel notes that in its examination of goods received at less than adequate remuneration, the Commission has stated in relation to Program 4 – Electricity provided by the GOC at less than adequate remuneration – that "*After assessing the information presented by the GOC and the exporter, the Commissioner does not have evidence that Masteel benefited from a preferential electricity rate that can be considered specific in the terms of section 269TAAC.*"

The Commission has previously examined electricity at less than adequate remuneration in earlier investigations. This includes findings in Investigation No. 237 on silicon metal exported from P R China where it was determined that Chinese silicon metal producers did receive a benefit for electricity at less than adequate remuneration. Comsteel requests the Commission to examine the benchmarks determined in Investigation No. 237 to establish whether Masteel's purchase price for electricity is lower than normal market (or provincial) rates.

V. Material injury

Comsteel endorses the Commission's findings confirming it had suffered injury during the investigation period in the form of:

- Loss of sales volumes;
- Loss of market share;
- Price suppression;
- Reduced profits;
- Reduced profitability;
- Reduced ROI;
- Reduced capacity utilization;
- Reduced employment numbers; and reduced revenue.

The Commission's analysis confirmed injury in the forms identified by Comsteel in its application for anti-dumping and countervailing measures.

VI. Causation

In determining whether the dumping had caused injury that was material to the Australian industry, the Commission had regard to the cumulative effects of the goods exported to Australia (i.e. from China and France). Where exports exist from more than one country, the desirability to cumulate the effects of the exports under section 269TB takes account of:

- The margin of dumping established for exporters in each country is not negligible; and
- The volume of dumped imports from each country is not negligible; and
- Cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and like goods domestically produced in Australia.

The dumping margins for the goods exported from China and France during the investigation period were significant – at 19.0 per cent and 37.2 per cent, respectively. The volume of the dumped exports to Australia as a percentage of total import volumes during the investigation were not negligible, and exceeded the volume of sales by the Australian industry. The Commission examined the details of tenders that impacted sales or potential sales in the market for the goods during the investigation period. The Commission was satisfied that the evidence confirmed that the tenders were awarded on

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the basis of prices offered and that "*this provides a clear causal link between the dumping and material injury to the Australian industry in the investigation period*."

Comsteel has maintained that it is a competitive supplier to the Australian market where it can compete with exports at undumped levels. The significant dumping margins determined (19 per cent for Masteel, and 37.2 per cent for Valdunes) prevented Comsteel from supplying locally produced goods to the Australian iron ore industry, resulting in material injury from the dumping.

Comsteel supports the findings of the Commission in relation to material injury and causation from the dumped exports as reflective of the events that occurred prior to, and throughout, the investigation period as they concur with Comsteel's understanding of injury experienced during the investigation period.

Comsteel has examined the Commission's assessment of the factors other than dumping raised by interested parties during this investigation as alleged causes (or contributing factors) of the injury experienced by Comsteel. In particular, Comsteel has reviewed the Commission's examination of the assertions of all interested parties concerning the cause of wheel failures brought to the attention of the Commission during the investigation period. Comsteel welcomes the Commission's statement referencing reports by both Rio Tinto and BHP that "*independent investigations into the wheel failures do not reach any negative conclusions about the standard of the Comsteel wheels and appear to support the view that a number of factors, including maintenance practices and wheel condemnation policies, have the potential to cause or contribute to wheel failures. There was no evidence to support claims that Comsteel's steel process was inherently inferior to that of the overseas suppliers, or that this was a factor in the decisions of the mining companies to purchase the dumped goods*."

Comsteel concurs with the Commission's comments and findings as they relate to the matters raised by interested parties during this investigation that Comsteel's steel manufacturing process was allegedly inferior and the cause of the wheel failures, albeit relatively small in number.

Comsteel also agrees with the findings at Section 11 of SEF 466 that the procurement decisions of the customers in the Australian industry during the investigation period were predominantly based on price. Comsteel was unsuccessful in tenders due to its non-competitiveness with the dumped prices. The Commissioner's conclusions therefore are supported that the dumping had caused injury to Comsteel that was material during the investigation period.

VII. Future threat of material injury

The Commission was able to validate that the

- Import volumes from China increased significantly between 2015 and 2017;
- Import volumes from France recommenced in 2017; and
- Import volumes from the subject countries continued in 2018,

and that export prices from China declined during the investigation period.

Comsteel concurs with the Commission's assessment that on the basis of the size of the dumping margins determined, and an examination of the quantitative and qualitative analysis, that dumping will continue if anti-dumping measures are not imposed. The available information supports a finding that future exports of the goods will be at dumped prices if measures are not applied.

VIII. Recommendations

Comsteel welcomes the Commissioner's findings and proposed recommendations as detailed in SEF 466. The Commission's investigations have confirmed that exports of iron ore railway wheels from China and France have been at dumped levels, the margin and volume of dumping is not negligible, the dumping has caused injury that is not immaterial, not insubstantial and not insignificant to the Australian industry. Further, the Commission has concluded that the dumping is likely to continue if anti-dumping measures are not imposed on dumped exports from China and France.

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Comsteel therefore requests the Commissioner to recommend to the Minister in his final report that anti-dumping measures be imposed on future exports of iron ore railway wheels from China and France to ensure that the Australian industry does not experience and, is not threatened, with material injury.

Comsteel fully supports the findings and proposed recommendations as contained in SEF 466.

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
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