Scope of the goods subject to investigation

1 Purpose
The Anti-Dumping Commission (Commission) is currently investigating the alleged dumping of solid base angle exported to Australia from the People’s Republic of China (China).¹

Interested parties have expressed conflicting views, and sought clarification, regarding the scope of the goods that are the subject of the application (the goods, or the goods under consideration).

Before reaching any conclusion on the scope of the goods under consideration, the Commission invites submissions from interested parties on the matters discussed in this paper.

Interested parties are invited to comment on the Commission’s preliminary assessment no later than 8 May 2019. The views expressed in this paper are preliminary views and may be amended following the Commission’s consideration of the submissions that are received in response to this paper. The Commission will take into account submissions received by this date in preparing the statement of essential facts for this investigation.

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. A guide for making submissions is available on the Commission’s website.² Submissions should preferably be emailed to investigations2@adcommission.gov.au.

Alternatively they may be mailed to:

The Director, Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra, ACT 2601
AUSTRALIA

² Submissions to the Anti-Dumping Commission
2 Background
Section 269TC of the *Customs Act 1901* (the Act) provides that if the Commissioner of the Anti-Dumping Commission (the Commissioner) decides not to reject an application under subsection 269TB(1) or (2) in respect of goods, the Commissioner must give public notice of the decision and must (as per subsection 269TC(4)(a)), in that notice, set out the particulars of the goods the subject of the application. The goods the subject of an application are, within section 269T, identified as the goods under consideration. The identification of 'like goods' (section 269T) is made on the basis of a comparison with the goods under consideration. Where there is Australian production of like goods, the Australian industry is defined in terms of that production. The identification of like goods also affects decisions relating to injury assessment, and the scope of any measures that may be imposed.

3 Particulars in the Initiation Notice
The initiating notice (ADN No. 2019/26) set out the particulars of the goods as follows:

**The Goods**
The goods the subject of the application are:

Solid base angle, made from hot rolled coil steel, alloyed or non-alloyed, cold roll-formed, whether or not galvanised.

**Further information**
The subject goods are typically described as “solid base angle” or “Budabar” or “B’bar” or “ribbed angle lintel” or “L-sections” and are typically used as lintels.

The goods are generally supplied in section sizes being nominally 100 mm x 100 mm x 6 mm or 150 mm x 100 mm x 6 mm ranging in length from 900 mm to 4000 mm.

Goods not covered by this application include T-bar, flat bar, perforated bar (e.g. Rendabar), and hot rolled sections; goods made from hot rolled coil steel that are subsequently subject to a further hot rolling process.

The goods are generally, but not exclusively, classified to the following tariff classifications in Schedule 3 to the *Customs Tariff Act 1995*:

- 7216.61.00 (statistical code 57);
- 7228.70.00 (statistical code 12);
- 7308.30.00 (statistical code 07); and
- 7308.90.00 (statistical code 64).

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3 All legislative references in this report are to the *Customs Act 1901* unless otherwise specified
4 Document 003, EPR 501.
4 Issue - scope of the goods under consideration
Submissions from interested parties have sought clarification as to whether the goods under consideration include all steel angles with a solid base that are cold formed from hot rolled coil (HRC) or whether they are confined to such cold-formed steel angles as are used in lintel applications only. Submissions have noted that cold roll-formed steel angles are commonly used in framing and general structural applications and claimed that these angles do not compete with lintel angles and do not comply with the relevant Australian Standards applicable to lintel angles.

5 Commission’s proposed approach
The Commission notes that, in any dumping investigation, the applicant provides a description of the goods that are the subject of the application on the basis that the applicant alleges it is being injured by those goods and wishes the Commission to examine whether those goods are dumped and causing material injury. The information that is set out as ‘further information’ in the initiation notice is information that is provided by the applicant to enable a full understanding of the goods that are the subject of its application. As such, the Commission refers to this information to clarify and interpret the scope of the goods under consideration.

The Commission notes that in order to enable a factual comparison between the goods under consideration and other goods (for example domestically produced like goods), the particulars of the goods under consideration must describe inherent characteristics that are capable of an objective visual or physical comparison. An assertion regarding intended end use in itself does not support such a comparison. However, there may be certain physical characteristics associated with the intended end use that are capable of such a comparison.

Nominal dimensions
In its application Galintel Pty Ltd (Galintel) states that the locally produced and imported goods are sold and used in the residential housing market to support brickwork over window, door and garage openings. In the information that it provided regarding the goods (see ADN No. 2019/26), in addition to its statement that ‘the goods are…typically used as lintels’, Galintel states that ‘the goods are generally supplied in section sizes being nominally 100 mm (height) x 100 mm (breadth) x 6 mm (thickness) or 150 mm (height) x 100 mm (breadth) x 6 mm (thickness)...’ The Commission understands that these nominal dimensions are based on standard bricklaying practices and brick sizes in Australia and are typical of cold roll-formed steel angles that are used as lintels in brick masonry walls.

The Commission’s preliminary view is these dimensions are physical characteristics associated with the end use of cold roll formed angles in lintel applications and that they may be used to clarify the scope of the goods under consideration. The effect of the Commission’s preliminary view would be that the goods under consideration are cold roll-formed angles (that meet all other requirements of the goods description) in the nominal dimensions 100 mm x 100 mm x 6 mm and 150 mm x 100 mm x 6 mm.

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5 See Documents 05, 06, 10, 11 EPR 501.
6 See for example Document 07, EPR 501.
The Commission invites stakeholder views on its proposed approach to determining the scope of the goods under consideration. The effect of the Commission’s preliminary view would be that the goods under consideration are angles (that meet all the other requirements of the goods description) in the nominal dimensions:

- 100 mm x 100 mm x 6 mm; and
- 150 mm x 100 mm x 6 mm.

**Other characteristics**

The Commission notes that submissions claiming that imported products or domestically produced products are not like goods to the goods under consideration have done so by contrasting the characteristics of those products against those of solid base angle produced by Galintel. The Commission notes that a determination of what constitutes the goods under consideration, and like goods to the goods under consideration, cannot be made on the basis of a comparison with the products manufactured by the applicant but must be made by reference to the particulars of the goods as set out in ADN No. 2019/26.

The Commission invites stakeholder views on physical or visual characteristics that are inherent to steel angles (that meet all the other requirements of the goods description) when those angles are used in lintel applications.

**Lengths**

The ‘further information’ provided by the applicant states that ‘the goods are generally supplied in section sizes ….ranging in length from 900 mm to 4,000 mm’.

The Commission notes that sections that are greater than 4,000 mm in length could be cut into lengths within the range cited by the applicant. As such, the Commission’s preliminary view is that that the length of a section is not an inherent characteristic that can determine whether certain angles fall within the scope of the goods under consideration.

The Commission invites stakeholder views on its preliminary view in relation to the lengths of the subject goods.