PUBLIC RECORD

Australian Government
Department of Industry, Science, Energy and Resources

Anti-Dumping Commission

***CUSTOMS ACT 1901* (Cth) - PART XVB**

# STATEMENT OF ESSENTIAL FACTS

# NO. 564

## REVIEW OF ANTI-DUMPING MEASURES

## APPLYING TO STEEL ROD IN COIL

## EXPORTED TO AUSTRALIA FROM THE PEOPLE'S REPUBLIC OF CHINA

**29 October 2020**

# CONTENTS

CONTENTS ........ 2
ABBREVIATIONS ........ 3
1 SUMMARY ........ 4
1.1 INTRODUCTION ........ 4
1.2 LEGISLATIVE BACKGROUND ........ 4
1.3 PRELIMINARY FINDINGS ........ 4
1.4 PROPOSED RECOMMENDATION ........ 4
1.5 RESPONDING TO THIS SEF ........ 5
1.6 FINAL REPORT ........ 5
2 BACKGROUND ........ 6
2.1 APPLICATION AND INITIATION ........ 6
2.2 PREVIOUS CASES ........ 6
2.3 THE CURRENT MEASURES ........ 7
2.4 REVIEW PROCESS ........ 7
2.5 SUBMISSIONS ........ 9
3 THE GOODS AND LIKE GOODS ........ 10
3.1 THE GOODS SUBJECT TO THE ANTI-DUMPING MEASURES ........ 10
3.2 MODEL CONTROL CODES ........ 11
3.3 LIKE GOODS ........ 11
4 EXPORT PRICE AND NORMAL VALUE ........ 12
4.1 PRELIMINARY FINDINGS ........ 12
4.2 UNCOOPERATIVE DUMPING MARGINS ........ 12
5 NON-INJURIOUS PRICE ........ 16
5.1 GENERAL ........ 16
5.2 LEGISLATION ........ 16
5.3 ESTABLISHING A NIP ........ 16
5.4 LESSER DUTY RULE ........ 17
6 FORM OF DUTY ........ 18
6.1 FORM OF DUTY ........ 18
7 PRELIMINARY FINDINGS AND PROPOSED RECOMMENDATIONS ........ 19
7.1 PRELIMINARY FINDINGS ........ 19
7.2 PROPOSED RECOMMENDATIONS ........ 19
8 APPENDICES AND ATTACHMENTS ........ 20
APPENDIX A – MARKET SITUATION ASSESSMENT ........ 21

# ABBREVIATIONS

| | |
|---|---|
| ABF | Australian Border Force |
| the Act | *Customs Act 1901* |
| ADN | Anti-Dumping Notice |
| AEP | ascertained export price |
| ANV | ascertained normal value |
| China | The People's Republic of China |
| the Commission | the Anti-Dumping Commission |
| the Commissioner | the Commissioner of the Anti-Dumping Commission |
| CTMS | industry's cost to make and sell |
| Customs Direction | *Customs (Extensions of Time and Non-cooperation) Direction 2015* |
| Dumping Duty Act | *Customs Tariff (Anti-Dumping) Act 1975* |
| EPR | electronic public record |
| FOB | Free on Board |
| GOC | Government of China |
| the goods | the goods to which the dumping duty notice applies |
| the Guidelines | *Guidelines on the Application of Forms of Dumping Duty* |
| IDD | interim dumping duty |
| InfraBuild | InfraBuild (Newcastle) Pty Ltd (the applicant), (formerly Liberty OneSteel (Newcastle) Pty Ltd), InfraBuild NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd, collectively |
| MCC | model control code |
| the Minister | the Minister for Industry, Science and Technology |
| NIP | non-injurious price |
| OCOT | ordinary course of trade |
| the Regulation | *Customs (International Obligations) Regulation 2015* |
| review period | 1 July 2019 to 30 June 2020 |
| SEF | statement of essential facts |
| USP | unsuppressed selling price |

# 1 SUMMARY

## 1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister)[1] in relation to a review of the anti-dumping measures (in the form of a dumping duty notice) applying to certain steel rod in coil (the goods) exported to Australia from the People's Republic of China (China).

This review of measures is in response to an application from InfraBuild (Newcastle) Pty Ltd and its related entities, InfraBuild NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd (collectively InfraBuild). InfraBuild claims that the variable factors relevant to the taking of the measures have changed.

## 1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901 (Cth)* (the Act)[2] sets out among other things, the procedures to be followed by the Commissioner in dealing with an application for a review of anti-dumping measures.

Division 5 of the Act empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject the application, he is required to publish a notice indicating that he proposes to review the measures covered by the application.[3]

The Commissioner must, within 110 days after the publication of the notice, or such longer period as allowed, place on the public record a statement of the essential facts (this SEF) on which the Commissioner proposes to base his recommendation to the Minister relating to the review of measures.[4]

## 1.3 Preliminary findings

The Commissioner finds that, in relation to exports of steel rod in coil to Australia from China, during the review period (1 July 2019 to 30 June 2020) the:

- ascertained export price (AEP) has changed;
- ascertained normal value (ANV) has changed; and
- non-injurious price (NIP) has changed.

## 1.4 Proposed recommendation

The Commissioner proposes to recommend to the Minister that the dumping duty notice have effect in relation to all exporters from China as if different variable factors had been ascertained.

---

1 For the purposes of this review, the Minister is the Minister for Industry, Science and Technology.

2 All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

3 Section 269ZC(4).

4 Section 269ZD(1).

## 1.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister. The SEF represents an important stage in the review because it informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner. The final report will recommend whether the dumping duty notice should be varied, and the extent of any interim duties that are, or should be payable.

Interested parties are invited to make submissions to the Commissioner in response to this SEF within 20 days of the SEF being placed on the public record. The due date to lodge submissions in response to this SEF is **18 November 2020**.

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.[5]

Submissions should preferably be emailed to:

investigations2@adcommission.gov.au

Alternatively, submissions may be posted to:

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

Confidential submissions must be clearly marked as "OFFICIAL: Sensitive". A non-confidential version of the submission, marked "PUBLIC RECORD", is required for the public record. A guide for making submissions is available on the Anti-Dumping Commission (Commission) website.[6]

The electronic public record (EPR) contains non-confidential submissions by interested parties and other publicly available documents. The EPR can be viewed online[7] and documents on the EPR for this review should be read in conjunction with this SEF.

## 1.6 Final report

The Commissioner's final report and recommendations must be provided to the Minister by **29 December 2020** or within such longer period as may be allowed.[8]

---

5 Subsection 269ZDA(4).

6 Available on the Commission's website.

7 EPR 564 available here.

8 Subsection 269ZDA(1).

# 2 BACKGROUND

## 2.1 Application and initiation

Following consideration of the application from InfraBuild, the Commissioner decided not to reject the application and on 27 July 2020, initiated a review of the anti-dumping measures on the goods exported to Australia from China.

Notification of the initiation of the review was made via Anti-Dumping Notice (ADN) No. 2020/080, which was published on 27 July 2020.[9] *Consideration Report No. 564* details the Commissioner's reasons for not rejecting the application.[10]

## 2.2 Previous cases

The original measures were imposed following Investigation 301 (or the original investigation).[11] A list of cases which are relevant to the goods and the present application are summarised in Table 1 below. Full details of each case can be found on the relevant EPR on the Commission website.[12]

| Case type and report | ADN No. | Date | Country of export | Findings |
|---|---|---|---|---|
| **Investigation** *Report 301* | 2016/47 | 22 April 2016 | China | Dumping duties imposed. |
| **Review** *Report 413 and 414* | 2018/50 | 14 April 2018 | China | Dumping duty notice varied in relation to exports from Jiangsu Shagang Group Co. Ltd and Hunan Valin Xiangtan Iron & Steel Co., Ltd. |
| **Review** *Report 468* | 2019/11 | 15 February 2019 | China | The AEP and ANV was changed for all exporters from China. |

**Table 1: Summary of key cases relating to steel rod in coil exported from China**

### 2.2.1 Continuation 562

On 27 July 2020, the Commission initiated an inquiry into whether the continuation of anti-dumping measures in respect of steel rod in coil exported from China is justified.[13] The inquiry period for Continuation 562 is the same as the review period for this review (1 July 2019 to 30 June 2020).

---

9 ADN 2020/080 available here.

10 EPR 564 document 2

11 ADN No. 2016/47

12 Available here.

13 ADN No. 2020/077

## 2.3 The current measures

The goods exported from China are currently subject to the combination duty method.

| Exporter | Dumping Margin | Duty Method |
|---|---|---|
| All exporters | 39.5% | Combination of fixed and variable duty method |

**Table 2: Current measures for steel rod in coil exported from China**

## 2.4 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally.[14] Accordingly, the affected party may apply for, or the Minister may request the Commissioner conduct, a review of those measures because one or more of the variable factors has changed or the anti-dumping measures are no longer warranted.[15]

The Minister may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the dumping duty notice or countervailing duty notice or the notice(s), declaring the outcome of the last review of the dumping or countervailing duty notice.[16]

If an application for a review of anti-dumping measures is received and not rejected, within 110 days of the initiation of a review, or such longer time as the Minister may allow, the Commissioner must place on the public record a SEF on which he proposes to base recommendations to the Minister concerning the review of the anti-dumping measures.[17] The Commissioner has up to 155 days, or such longer time as allowed, to conduct a review and report to the Minister on the review of the anti-dumping measures.[18]

During the course of a review, the Commissioner will examine whether the variable factors have changed. Variable factors in this review are a reference to the:

- AEP;
- ANV; and
- NIP.

In making recommendations in his final report to the Minister in this review, the Commissioner must have regard to:

- the application for review of the anti-dumping measures;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- this SEF; and

[14] Sections 269ZA(1)(a) and (b).

[15] Section 269ZA(1)(b).

[16] Section 269ZA(2)(a).

[17] Section 269ZD(1).

[18] Section 269ZDA(1).

- any submission made in response to this SEF that is received by the Commissioner within 20 days of it being placed on the public record.[19]

The Commissioner may also have regard to any other matter considered to be relevant to the review.[20]

At the conclusion of this review, in respect of the dumping duty notice, the Commissioner must provide a final report making a recommendation to the Minister that the dumping duty notice:

- remain unaltered; or
- has effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.[21]

Following the Minister's decision, the Minister must give notice of the decision.[22]

This SEF is due to be placed on the public record by no later than **14 November 2020**.

### 2.4.1 Australian industry

InfraBuild is the sole Australian manufacturer of the goods for sale in the domestic market. Based on a verification of InfraBuild conducted in August 2020,[23] the Commission is satisfied with the reliability of the information InfraBuild has provided in this review.

### 2.4.2 Importers

The Commission searched the Australian Border Force (ABF) import database and did not identify any importations of the goods from China during the review period. The Commission sent a questionnaire to importers of the goods identified as having previously imported or that had cooperated in previous cases. The Commission also placed the questionnaire on its website for completion by other importers that were not contacted directly.

The Commission did not receive any completed importer questionnaires.

### 2.4.3 Exporters

The Commission did not identify any importations of the goods during the review period. As a result the Commission sent questionnaires to exporters that had cooperated in previous cases. The relevant exporter questionnaires and associated spreadsheets were also placed on the Commission's website for completion by other exporters who were not contacted directly.

The Commission did not receive any completed exporter questionnaires.

---

19 Section 269ZDA(3)(a).

20 Section 269ZDA(3)(b).

21 Section 269ZDA(1)(a).

22 Section 269ZDB(1).

23 EPR 546, document no. 19.

## 2.5 Submissions

The applicant made the following submission:

| Interested Party | Date published | EPR document no. |
|---|---|---|
| InfraBuild | 3 August 2020 | 4 |

**Table 3: Submission received**[24]

The matters raised in this submission have been addressed at 3.1.2 of this SEF.

24 All submissions are available on the Commission website.

# 3 THE GOODS AND LIKE GOODS

## 3.1 The goods subject to the anti-dumping measures

The goods the subject of the review are:

*Hot-rolled rods in coils of steel, whether or not containing alloys, that have maximum cross sections that are less than 14mm.*

*The goods covered include all steel rods meeting the above description regardless of the particular grade or alloy content.*

*Goods excluded from the measures are:*

*Hot-rolled deformed steel reinforcing bar in coil form, commonly identified as rebar or debar, and stainless steel in coils.*

### 3.1.1 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* [25].

| Tariff Subheading | Statistical Code | Description |
|---|---|---|
| 7213 | BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF IRON OR NON-ALLOY STEEL | |
| 7213.91 | Other | |
| 7213.91.00 | 44 | Of circular cross-section measuring less than 14 mm in diameter |
| 7227 | BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF OTHER ALLOY STEEL | |
| 7227.90 | Other | |
| 7227.90.90 | 02 | *Of circular cross-section measuring less than 14 mm in diameter* |

**Table 4: General tariff classification for the goods**

### 3.1.2 Interested party submission

On 3 August 2020, InfraBuild made a submission to the Commission concerning the tariff classifications outlined in Table 4.[26] InfraBuild's submission, which was a joint submission for this review and Continuation 562, noted an additional tariff classification code which it considered may have been assigned to imports of the goods.

InfraBuild requested the Commission review the import data to ensure the goods imported using this additional tariff code are included in the Commission's analysis. InfraBuild's submission also requested the Commission consider updating the dumping commodity register to include goods under this additional tariff code.

The Commission reviewed the ABF import database for the additional tariff code and found no evidence of the goods being exported using this tariff code., Based on this, the

---

[25] The statistical codes applying to these tariff classifications were modified subsequent to the initiation of the original investigation.

[26] EPR 563, document no. 4.

Commission does not find it appropriate to update the dumping commodity register to include the additional tariff code.

## 3.2 Model control codes

The Commission generally uses a model control code (MCC) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values[27].

The Commission proposed a MCC structure for this review at initiation[28], however, due to the lack of cooperation from exporters in this review, the Commission was unable to assess the proposed MCC structure in relation to exports from China.

## 3.3 Like goods

Having regard to the Commission's:

- examination of the Australian industry and the goods in previous cases;[29]
- verification of exporters in China in previous cases;[30] and
- findings in previous cases that locally produced goods are like goods to the goods exported from China;[31]

the Commission is satisfied that the locally produced goods closely resemble the goods the subject of the application and are like goods. This is as the:

- primary physical characteristics of the locally produced goods closely resemble the imported goods;
- imported and locally produced goods are commercially alike as they are sold to the same customers and/or compete in the same markets;
- imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable; and
- imported and locally produced goods are manufactured in a similar manner.

[27] The basis for using a MCC structure and the Commission's practice is explained in ADN 2018/128.

[28] The proposed MCC structure is detailed in ADN 2020/080.

[29].EPR 301, document no. 26 refers.

[30] EPR 413, document no. 8 and EPR 414, document no. 8 refer.

[31] Investigation 301 and reviews 413, 414 and 468.

# 4 EXPORT PRICE AND NORMAL VALUE

## 4.1 Preliminary findings

The Commissioner finds that the export price and normal value, variable factors relevant to the determination of dumping duties payable under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), have changed.

The Commission has calculated the dumping margin set out in the following table.

| Exporter | Dumping margin |
|---|---|
| Uncooperative and all other exporters | 33.1% |

**Table 5: Dumping margin during review period**

## 4.2 Uncooperative dumping margins

On initiation of this review, the Commission published a notice under section 269ZC(4), being ADN 2020/080,[32] on the Commission's website. In accordance with section 269ZC(7), the notice invited interested parties to lodge with the Commissioner within 37 days after publication of the notice, submissions concerning the review. Exporter and importer questionnaires were published on the Commission's website.

The Commission undertook a search of the ABF import database to identify exporters that had exported the goods to Australia during the review period. The Commission did not identify any importations of the goods during the review period. As a result, the Commission sent questionnaires to exporters that had cooperated in previous cases. The Government of China (GOC) was sent a questionnaire and advised of the initiation of this review.

The Commission did not receive any responses to the exporter questionnaire. It also did not receive any submissions regarding the initiation of this review from any other exporters of steel rod in coil from China to Australia.

On the basis that no submissions or responses were received from any exporters, the Commissioner is satisfied that all exporters of steel rod in coil from China to Australia did not provide the Commissioner with information relevant to this review within a reasonable period of time. The Commissioner therefore considers all exporters of steel rod in coil from China as uncooperative exporters as defined by section 269T(1).

### 4.2.1 Export price

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. Section 269TACAB(1)(d) specifies that for uncooperative exporters, export prices are to be calculated under section 269TAB(3).

Accordingly, the Commissioner has determined an export price under section 269TAB(3) after having regard to all relevant information.

The Commissioner considers that, having regard to all relevant information, it is appropriate to determine an export price for uncooperative exporters by applying a timing adjustment to the export price ascertained by the Minister following the most recent review, Review 468.[33] This is because there has not been any exports of the goods from

---

32 ADN No. 2020/080 refers.

33 ADN 2019/11

China in the time since the last review, including during the current review period, from which to determine an export price. This approach is consistent with the approach adopted in Review 468. In Review 468, the Commissioner considered that the S&P Global Platts (Platts) price data for steel rod in coil to be recent, relevant and the best information available to it on which to base a timing adjustment.

The Commission has analysed the Free on Board (FOB) export prices for steel rod in coil exported from China, as published by Platts. The analysis shows that the average price of steel rod in coil exported during the review period[34] (1 July 2019 to 30 June 2020) is 7 per cent lower than the average FOB export price during the previous review period (1 April 2017 to 31 March 2018)[35]. The movement in FOB export prices for steel rod in coil exported from China during the period 1 April 2017 to 30 June 2020 is depicted in Figure 1 below.

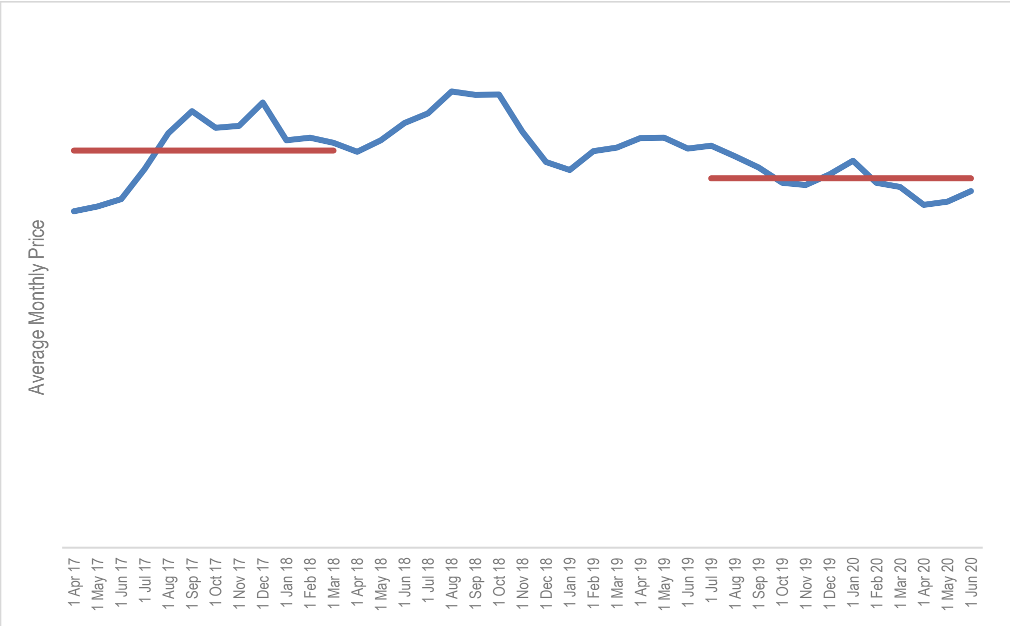


**Figure 1: Steel rod in coil - FOB export prices (RMB/t) – China**

Due to the absence of exports during the review period, the Commission considers it reasonable to adjust the export price in line with the change in the movement in FOB export prices for steel rod in coil exported from China. The Commission has therefore applied a timing adjustment by decreasing the weighted average ascertained export price previously determined by the Minister by 7 per cent to reflect the lower Chinese export prices for steel rod in coil during the current review period. Details of the export price calculations are at **Confidential Appendix 1**.

### 4.2.2 Normal value

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. Section 269TACAB(1)(e) specifies that normal values are to be calculated under section 269TAC(6).

Accordingly, the Commissioner has determined a normal value under subsection 269TAC(6) after having regard to all relevant information.

---

34 Denoted by horizontal red line.

35 Ibid.

Specifically, the Commissioner considers that the best available information to determine a normal value for uncooperative exporters of steel rod in coil from China is the normal value established by Review 468. This is because there has not been any exports of steel rod in coil from China since Review 468.

#### 4.2.2.1 Particular market situation- the Commission's assessment

Upon initiation of this review, the Commission sent a questionnaire to the Government of China (GOC) requesting information for the purposes of investigating the existence of a particular market situation in the domestic market for steel rod in coil in China. The GOC was informed that if it did not respond, the Commission may be required to rely on information supplied by other parties.

The GOC did not provide a response to the questionnaire.

In light of all the information before it, it is the Commission's view that a particular market situation existed in respect of the domestic market for steel rod in coil in China for the review period. A detailed analysis of this finding is in **Appendix A**.

#### 4.2.2.2 Timing adjustment

The Commissioner considers that, based on all relevant information, a timing adjustment to the normal value determined in Review 468 is appropriate to establish the normal value for steel rod in coil during the review period.

In Investigation 301, the Commission found that due to the particular market situation present in the Chinese steel rod in coil market, the Latin American steel billet export prices at FOB level published by Platts formed an independent and reliable basis for competitive market costs[36]. Subsequent reviews, including Review 468, made the same finding. The Commission has not received any evidence that this finding should not be adopted in this review.

The Commission's analysis of Latin American FOB export prices for billet published by Platts indicates that the average billet price for the current review period[37] is 11.3 per cent lower than the average during the review period[38] for Review 468 (1 April 2017 to 31 March 2018). The movement in Latin American FOB export prices for billet during the period 1 April 2017 to 30 June 2020 is depicted below at Figure 2.

---

[36] Section 5.4, Report 301, available here.

[37] Denoted by the horizontal red line

[38] Ibid.

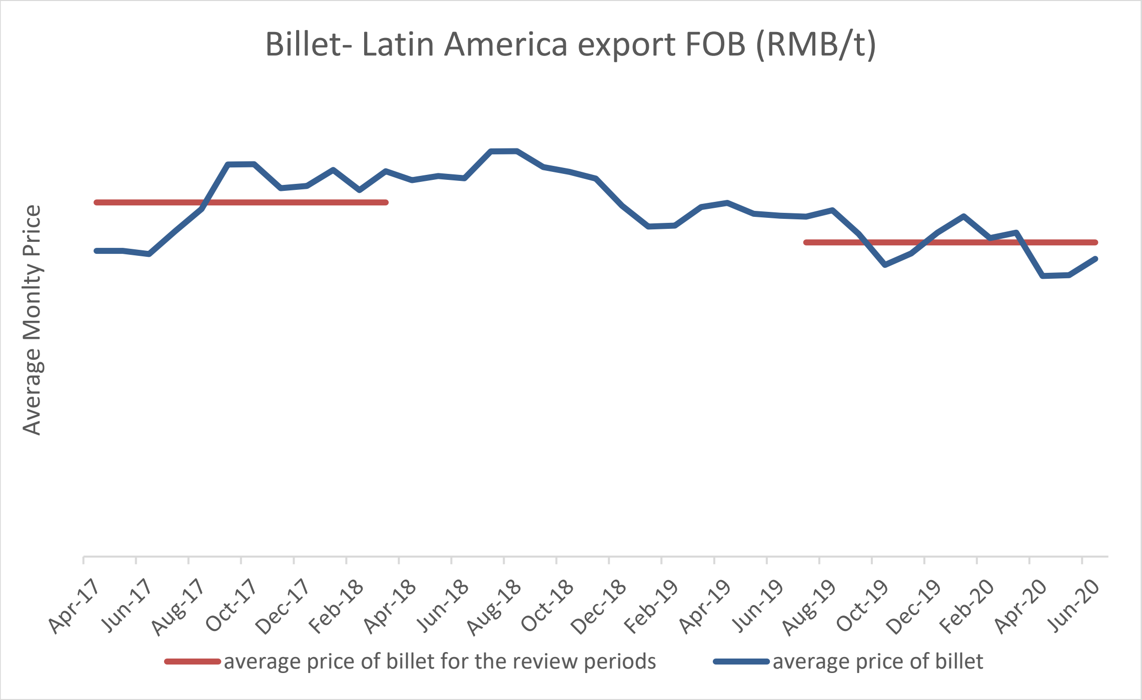


**Figure 2: Billet prices - FOB export (RMB/t) – Latin America**

Accordingly, the Commission has adjusted the normal value determined during Review 468 by decreasing those values by 11.3 per cent to reflect the lower billet prices during the current review period. Details of the normal value calculations are at **Confidential Appendix 1**.

### 4.2.3 Dumping margin

The Commissioner has determined a dumping margin for all exporters of steel rod in coil from China to Australia by comparing the adjusted normal value with the adjusted ascertained export price. The resultant dumping margin is **33.1 per cent**. Details of the dumping margin calculation are at **Confidential Appendix 1.**

# 5 NON-INJURIOUS PRICE

## 5.1 General

Dumping duties may be applied where it is established that dumped imports have caused, or threaten to cause, material injury to an Australian industry producing like goods. The level of dumping duty imposed cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury.

## 5.2 Legislation

By operation of section 269T(4E), the NIP of the goods is a variable factor for the purposes of a review of measures under section 269ZA(1).

Under section 8(5) of the Dumping Duty Act, the Minister must specify a method for calculating the Interim Dumping Duty (IDD) payable. In doing so, the Minister must, if the NIP is less than the normal value, have regard to the desirability of specifying a method of calculating the IDD such that the sum of the interim dumping duty payable and the AEP is not greater than the NIP (lesser duty rule).

Under section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty where the Minister is satisfied that one or more of the following circumstances exist:

a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii);
b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

## 5.3 Establishing a NIP

Under section 269TACA(a), the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, or to remove the hindrance to the Australian industry caused by the dumping of the goods.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). Deductions from this figure are made for post-exportation costs to derive a NIP that is expressed in similar delivery terms to the export price and the normal value (e.g. FOB).

Where the NIP is lower than the normal value, the duty is calculated with respect to the difference between the export price and the NIP, thereby giving effect to the lesser duty rule.

The Manual provides a hierarchy of options for establishing a USP:

- the Australian industry's selling prices in a period unaffected by dumping;
- the Australian industry's cost to make and sell (CTMS) plus a reasonable amount for profit; or
- selling prices of undumped imports in the Australian market.[39]

[39] The Manual, pp. 137-140 refer.

### 5.3.1 Approach in the original investigation

In Investigation 301 the Commission calculated the NIP based the on the Australian industry's July 2015 quarter CTMS, plus an amount for profit being an estimated sustainable rate of return for the Australian industry in line with borrowing activity at the time. The Commission then removed post exportation costs, including trading profits, ocean freight and marine insurance, and total into store costs to determine a NIP at FOB level.

### 5.3.2 Commission's approach and assessment

In considering a suitable approach to calculate the USP for this review, the Commission has taken into account the presence of dumped imports of steel rod in coil during the review period.

The Commission searched the Australian Border Force (ABF) import database and found that there was no imports of the goods from China during the review period. The only other country which had anti-dumping measures in place on the goods during the review period was Taiwan.[40] The Commission did not find any imports of the goods from Taiwan during the review period. Further, none of the countries with significant imports of the goods during the review period were subject to an application or investigation of alleged dumping during the review period.

As a result, the Commission considers that the Australian industry's selling prices were not affected by the presence of dumped imports in the market during the review period. Therefore, the USP has been established by reference to the Australian industry's selling prices during the review period.

The NIP applicable to China was calculated by deducting from the USP, a weighted average of the following:

- ocean freight and marine insurance expenses;
- other importation costs (port, unpacking, container charges etc.); and
- importer selling expenses.

These items were obtained from verified importer data from the original investigation.

As this data is from 2014 and 2015, the Commission has indexed ocean freight with reference to an industry freight index. The Commission has found the lower shipping rate, importation costs, selling expenses and marine insurance expenses to be comparable to verified data from a concurrent inquiry also concerning exports of rebar to Australia.[41]

The Commission's NIP calculations are at **Confidential Attachment 1**.

## 5.4 Lesser duty rule

The Commission has assessed that the calculated NIP is less than the normal value ascertained for uncooperative exporters from China. The Commissioner's preliminary recommendation, pursuant to section 8 of the Dumping Duty Act, is not to apply the lesser duty rule as it has found that a particular market situation exists in China. The Commission notes that the Minister may nevertheless apply the lesser duty rule.

---

[40] Dumping Commodity Register refers

[41] Continuation Inquiry No. 546 examined rebar exported from Korea, Singapore, Spain and Taiwan during the period 1 January 2019 to 31 December 2019. The Commissioner's preliminary findings in relation to this inquiry can be found in SEF 546 on the Commission website here.

# 6 FORM OF DUTY

## 6.1 Form of duty

The forms of duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. In relation to IDD, the forms of duty are:

- fixed duty method ($X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).[42]

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty* (the Guidelines)[43] and relevant factors applicable to the market for the goods.

The Commission notes that current anti-dumping measures are in the form of a combination duty. The decision to adopt the combination duty method was made in Review 468 and was based on a submission made by InfraBuild and consideration of the Guidelines.

As there was no cooperation from Chinese exporters during this review, the Commission considers that the circumstances of steel rod in coil exported from China remain the same and the combination duty method continues to be the most appropriate form of duty.

---

42 Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

43 The Guidelines are available here.

# 7 PRELIMINARY FINDINGS AND PROPOSED RECOMMENDATIONS

## 7.1 Preliminary findings

The Commissioner has found in relation to exports of the goods to Australia from China during the review period, the:

- AEP has changed;
- ANV has changed; and
- NIP has changed.

## 7.2 Proposed recommendations

The Commissioner proposes to recommend to the Minister that:

- the dumping duty notice in respect of the goods exported to Australia from China have effect in relation to all exporters generally, as if different variable factors had been ascertained; and
- in respect of any IDD that may become payable, these duties be calculated using the combination duty method.

The following table summarises the effect of these recommendations:

| Exporter | IDD | Form of measures |
|---|---|---|
| Uncooperative and all other exporters | 33.1% | Combination duty |

**Table 6: Proposed measures applying to exports of steel rod in coil from China**

# 8 APPENDICES AND ATTACHMENTS

| | |
|---|---|
| **Appendix A** | Market situation assessment |
| **Confidential Attachment 1** | Uncooperative rate – Analysis, export price, normal value, NIP and dumping margin calculations |
| **Confidential Attachment 2** | Market situation analysis |

# APPENDIX A – MARKET SITUATION ASSESSMENT

## A1 Introduction

The Commission's assessment of available information has concluded that there is a particular market situation (market situation) in the domestic steel rod in coil market in China.

## A2 Australian legislation, policy and practice

Australia treats China as a market economy for anti-dumping purposes, and the Commission conducts its investigation in the same manner for China as it does for other market economy members of the World Trade Organization (WTO). Irrespective of the country the subject of investigation, the Australian anti-dumping framework allows for rejection of domestic selling prices as the basis for normal values where there is a 'market situation' such that sales in that market are not suitable for use in determining a price

### A2.1 Legislation

Section 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the OCOT (ordinary course of trade) for home consumption in the country of export in arms length transactions by the exporter or, if like goods are not sold by the exporter, by other sellers of like goods.

However, section 269TAC(2)(a)(ii) provides that the normal value of the goods exported to Australia cannot be determined under section 269TAC(1) where the Minister is satisfied that '…*because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)*'.

Where such a market situation exists, normal value cannot be established on the basis of domestic sales. Instead, the normal value may be determined using another method in section 269TAC. Therefore, a determination as to whether there is a market situation has potential consequences for the assessment of normal value.

### A2.2 Policy and practice

In relation to market situation assessments, in considering whether sales are not suitable for use in determining a normal value under section 269TAC(1) because of the situation in the market of the country of export the Commission may have regard to factors such as whether the prices are artificially low.

Government influence on prices or input costs could be one cause of artificially low pricing. Such government influence could come from any level of government.

In assessing whether a market situation exists due to government influence, the Commission will assess whether government involvement in the domestic market has materially distorted market conditions. If market conditions have been materially distorted then domestic prices may be artificially low or not substantially the same as they would be in a competitive market.

Prices may also be artificially low or lower than they would otherwise be due to government influence on the costs of inputs. The Commission looks at the effect of any such influence on domestic prices.

For section 269TAC(2)(a)(ii) to apply, the Commission is required to identify where a 'market situation' exists, and if found to exist, be satisfied that the 'market situation' renders sales in that market not suitable for normal value purposes before rejecting actual selling prices.

Although it is for the Commission to establish the nature and consequence of the 'market situation', including an evaluation of whether there is an impact on domestic prices, the Commission considers that the pricing effect does not necessarily have to be quantified.

## A3 The Commission's assessment of market situation

In undertaking this assessment, the Commission considered the following:

- InfraBuild's application for this review;
- previous market situation assessments undertaken by the Commission;
- desktop research, including information obtained from departmental resources and relevant third party information providers.

The Commission did not receive a response to the government questionnaire from the GOC for this review. This has impeded the ability of the Commission to undertake its assessment. Notwithstanding, the Commission analysed all available information.

The Commission's analysis is at **Confidential Attachment 2 – Market situation analysis**.

### A3.2 Applicant's claims

OneSteel Manufacturing Pty Ltd[44] claimed in the original investigation (Investigation 301) that, during the relevant investigation period, a particular market situation in the Chinese steel rod in coil market rendered sales in those markets unsuitable for determining normal values under section 269TAC(1).

In its application for this review[45], InfraBuild cited the Commission's previous findings that domestic selling prices for steel billet in China did not reasonably reflect market costs associated with the production and manufacture of steel rod in coil. InfraBuild submitted that as the final report for the Investigation 301[46] was published on 22 April 2016, the GOC's Five Year Economic Development Plan referenced in that report is still current.

[44] InfraBuild was formerly a part of the OneSteel group.

[45] InfraBuild's application, available here

[46] Final report for Investigation 301, available here

### A3.3 Commission's approach

In accordance with its legislative obligations, the Commission's market situation assessments are undertaken at the level of the goods being investigated.

The main raw material for steel rod in coil is steel billet which accounts for approximately 80 to 85 per cent of the cost to make for steel rod in coil.[47] As such, the Commission considers that distortions in the steel billet market have a substantial impact on the price of steel rod in coil.

Accordingly, in undertaking this assessment, the Commission has considered conditions within the Chinese steel billet market. The Commission has not undertaken an assessment of conditions within the Chinese markets for the raw materials used to produce steel billet (being iron ore, coking coal and coke), as any distortions within these markets would contribute to (and be incorporated into) conditions within the Chinese steel billet market.

The Commission has also given consideration to conditions within the broader Chinese steel industry. This approach was adopted because of the lack of available information concerning certain aspects of the Chinese steel rod in coil market, which was, in part, due to the GOC's omission with respect to providing the Commission with a response to the government questionnaire.

In this assessment, "GOC" refers to all levels of government in China (including central, provincial and local governments), unless otherwise specified. Similarly, the Commission has referred to Chinese state owned enterprises and state invested enterprises collectively as SOEs. The Commission has adopted this approach because it considers that the GOC has the ability to directly influence decision-making in a similar fashion in relation to these types of entities.

## A4 The Commission's assessment

In REP 301, the Commissioner found that there was a particular market situation in China such that domestic selling prices for steel rod in coil were not suitable for determining normal values under section 269TAC(1).[48] The Commission constructed normal values in REP 301 in accordance with section 269TAC(2)(c) and sections 43, 44 and 45 of the Regulation.

The Commission has previously undertaken research and analysis on the influence of the GOC in respect of the Chinese domestic steel market.[49] Each of these investigations and

---

47 Page 11, Final report for Investigation 301, available here

48 In terms of section 269TAC(2)(a)(ii).

49 These cases include:

- *International Trade Remedies Branch Report No. 177* (hollow structural sections);
- *International Trade Remedies Branch Report Nos. 190* and *193* (zinc coated and aluminium zinc coated steels);
- *Anti-Dumping Commission Report No. 198* (hot rolled plate steel);
- *Anti-Dumping Commission Report No. 238* (deep drawn stainless steel sinks);
- *Anti-Dumping Commission Report No. 300* (steel reinforcing bar);
- *Anti-Dumping Commission Report No. 301* (rod in coil);
- *Anti-Dumping Commission Report No. 316 (grinding balls)* and

inquiries has consistently established that the interventions of the GOC in respect of Chinese iron and steel industries rendered relevant domestic selling prices unsuitable for establishing normal values.

Other reports by the Commission, including the *2016 Analysis of Steel and Aluminium Markets Report*[50], flagged significant excess supply in Chinese steel markets. Also, a 2017 report by the European Commission (2017 EC Report)[51] identified continuing GOC influence in Chinese steel markets. Both of these reports identify similar conditions to those established in REP 301.

The 2017 EC Report and various previous reports by the Commission identified that these conditions apply to the predominant raw material inputs used in the production of steel rod in coil. These identified impacts on raw materials include:

- export duties on steelmaking raw materials for chromium, crude steel, iron ore, coke, coking coal, manganese, molybdenum, pig iron, and steel scrap;[52]
- the impact of the GOC's overarching macroeconomic policies and plans;
- non-automatic export licensing requirements for certain raw materials which gives the GOC control over the exportation of raw materials used in the production of steel rod in coil, generating extra transaction costs and hindering exporters ability to react quickly to sales opportunities;[53]
- including chromium mines as part of the Chinese iron and steel industry in the GOC's National Steel Policy, which has been found to have impacted and distorted the cost of raw materials;[54] and
- defining chromium as a strategic mineral in the Plan, and the finding that these "strategic minerals are 'key elements of the mineral resources macro-control, supervision and management'" and "the plan mentions the role of governmental decision-making on the sector's development".[55]

While the Commission is aware that the GOC has made significant efforts to reduce export tariffs and quotas for coke and coking coal, it is noted that scrap steel, iron ore and coking coal are still important raw materials in the manufacture of steel. While government tariff and quota measures have declined in recent years, they remain factors that are likely to distort the markets for these materials in China.[56]

It is apparent in light of the information above, and the further analysis in the following sections, that government influence by the GOC has resulted in a particular market situation in the Chinese steel rod in coil market.

---

- *Anti-Dumping Commission Report Nos. 379* and *419* (hollow structural sections).

50 Anti-Dumping Commssion (*2016*), Analysis of Steel and Aluminium Markets Report, available here

51 European Commission, (2017) Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, available here

52 2017 EC Report, page 365 and REP 316, page 93.

53 2017 EC Report, page 309.

54 *Anti-Dumping Commission Report No. 238*, page 136.

55 2017 EC Report, page 268.

56 *Anti-Dumping Commission Report No. 466 (railway wheels)*, page 93.

### A4.1 China's steel industry

The Chinese steel industry is the largest in the world, with China ranked number one in crude steel production in 2019 with an output of 996.3 million tonnes[57]. This accounted for 53 per cent of the world's crude steel production. China is also the top exporter of steel which includes finished and semi-finished products, with exports mainly destined for other Asian countries and representing 15 per cent of global exports in 2019.

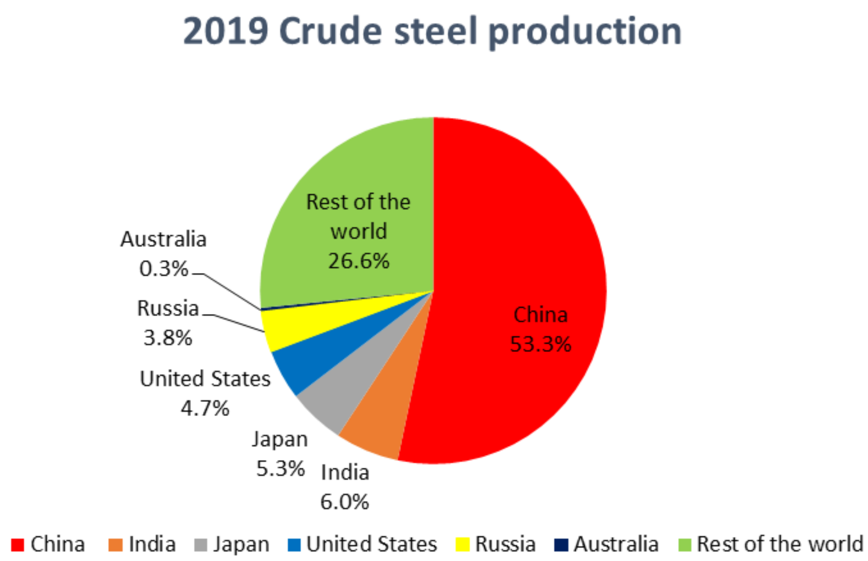


**Figure 1: Crude steel production**

*Source: World Steel Association*[58]

Based on the yearly figures from the World Steel Association, China's crude steel production increased by approximately 73 per cent between 2009 to 2019. In the same period, China's steel consumption also increased by a similar margin. Figures show that China's production in 2019 has increased to 996 million tonnes, a rise of 8 per cent from 2018.[59] Some of the key industries driving the demand for steel in China include construction, steel fabrication, machinery, automotive and parts.

Since 2009, China's steel production has exceeded consumption year on year, and it is forecast that this trend will continue into the future.

---

[57] World Steel Association – 2020 World Steel in Figures, available here

[58] World Steel Association - 2020 World Steel in Figures, available here

[59] World Steel Association, World Crude Steel Production – Summary, 27 January 2020, available here

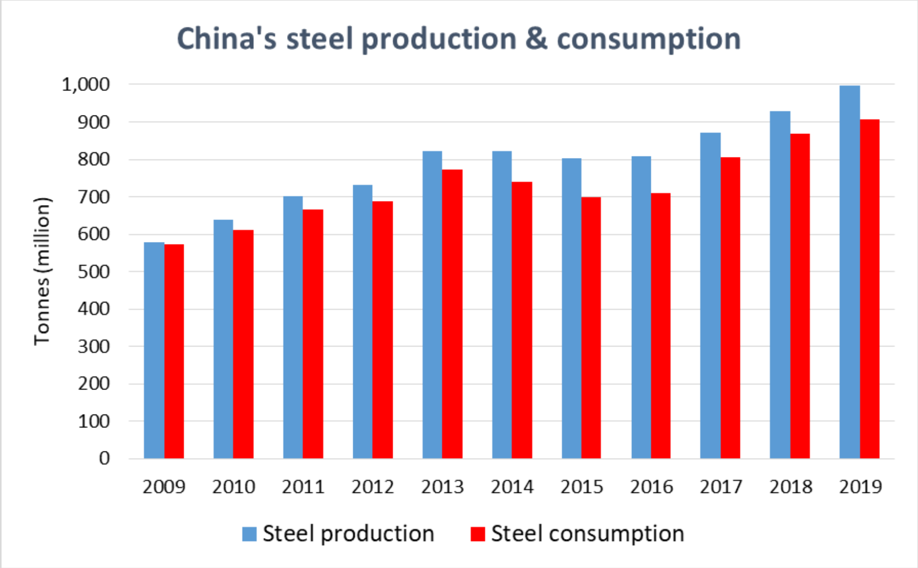


**Figure 2: Crude steel production and consumption in China**
*Source: World Steel Association*

China's capacity utilisation fluctuated between 2009 and 2018, declining to 70 per cent in 2015 while production capacity reached its highest levels. In 2018, China's production capacity was 1,023.4 million tonnes, while its actual steel production reached 928 million tonnes. Investigation 300 found that there was significant excess capacity during the 2014/02015 investigation period and an oversupply in the Chinese steel market.

Following China's 2016 supply side reform and five year plan, there has been an increase in industry consolidation and a reduction in excess capacity. China removed 150 million metric tonnes per year of capacity and 140 million metric tonnes per year of "unlicensed" induction furnace capacity. However, at the same time, new steel facilities have been installed which are more efficient, with improved, more environmentally friendly technology.[60] These changes can be seen in Figure 3.

60 S&P Global Platts, China Steel Refining Capacity Rises as Supply Side Reforms Come Under Pressure (2019), available here

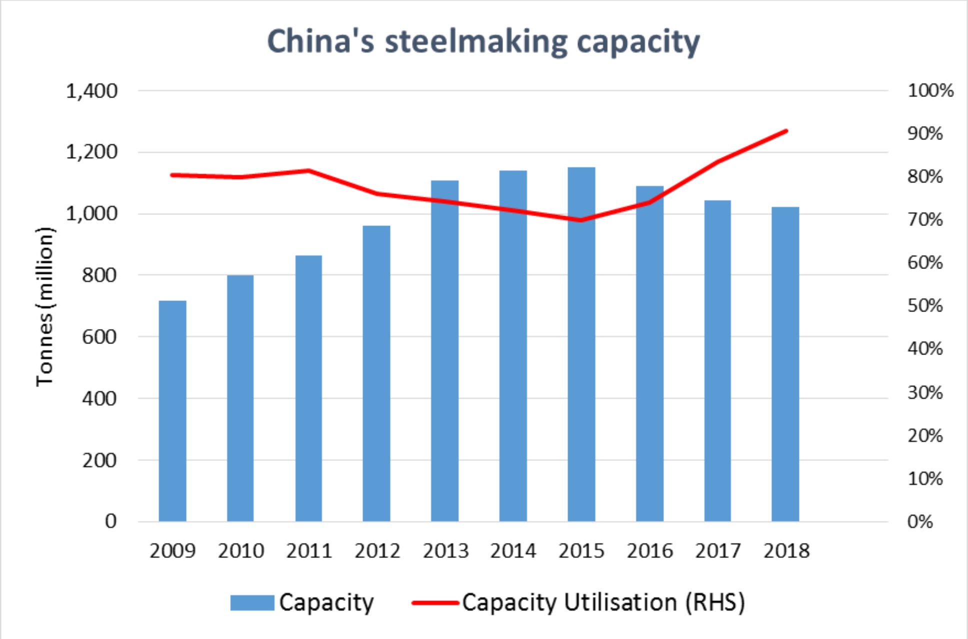


**Figure 3: China's steel capacity utilisation**

*Source: Organisation for Economic Co-operation and Development* (OECD)[61], *World Steel Association, ADC calculations*

### A4.1.1 Impact of Covid-19 on the steel industry

World Steel Association statistics[62] show that Chinese steel production volumes have exceeded pre Covid-19 levels, with over 93 million tonnes being produced in July 2020. This represents a 9% increase in production volumes compared to July 2019. At the same time, the rest of the world produced just under 60 million tonnes, a 16% decrease compared to last year. These changes can be seen in Figure 4.

---

[61] OECD Steelmaking Capacity Database (version 2019). Note: The data on nominal crude steelmaking capacity provided for China does not include production capacity by "illegal" induction furnaces, nor do they reflect any changes in steelmaking capacity associated with those furnaces. Accessed on 5 May 2020.

[62] World Steel Association, Crude steel production monthly statistics. Available here

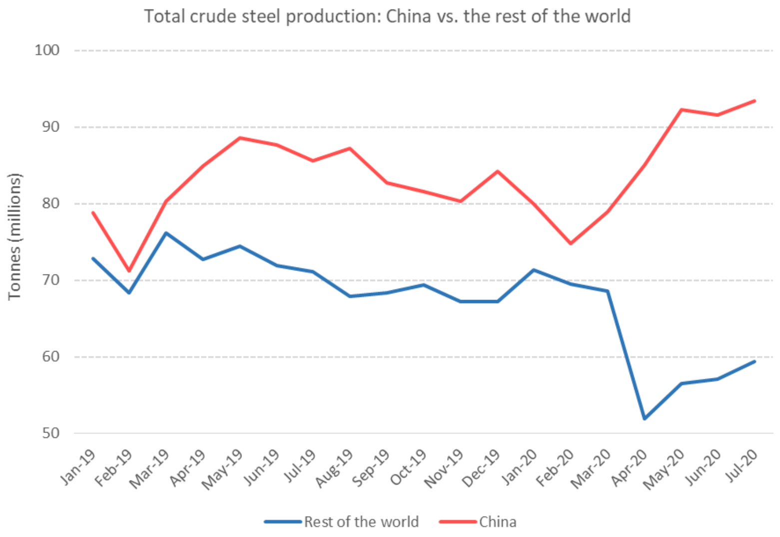


**Figure 4: Crude steel production – China and the rest of the world**

*Source: World Steel Association*[63]

In July 2020, China's share of total global crude production reached 61%, compared to 52% in January 2019.

## A5 GOC influence in Chinese steel markets

The Commission considers the GOC's involvement within, and influence across the steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry and the steel rod in coil market. This involvement includes the issuing of planning guidelines and directives, along with provisions of direct and indirect financial support.[64] Other key mechanisms include the role and operation of SOEs, taxation arrangements and tariff policies.

### A5.1 Role and operation of SOEs

In 2016, sixteen of the world's 50 largest steelmaking companies were SOEs from China.[65] In 2018, eight of the top ten steel producers in China were SOEs, either wholly or majority owned by the government. The Commission estimates that Chinese SOEs accounted for approximately 40 per cent of total Chinese steel production.

The OECD defined SOEs as "any corporate entity recognised by national law as an enterprise, and in which the state exercises ownership, should be considered as an SOE. This includes joint stock companies, limited liability companies and partnerships limited by shares."[66] State enterprises can be defined to even a broader extent, in that it goes beyond the notion of ownership to explicitly include cases of "control" through minority

---

63 World Steel Association - Steel Statistical Yearbook 2019, available here

64 Duke Centre on Globalisation, Governance & Competitiveness (Duke Centre), 2016. *Overcapacity in Steel: China's role in a global problem*, September 2016, page 24.

65 World Steel Association (2018), The Chinese steel industry at a crossroads, available here

66 OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition, OECD Publishing, Paris.

shares, or other forms of control that can be exercised by the state such as legal stipulations or corporate rules that grant effective influence over the company's decision-making process. The competitive advantages enjoyed by state enterprises may have fostered capacity investments, not necessarily in response to market-based considerations, but rather as the outcome of predefined policy goals.[67]

The World Bank also found that "state enterprises have close connections with the Chinese government. SOEs are more likely to enjoy preferential access to bank finance and other important inputs, privileged access to business opportunities, and even protection against competition."[68]

While the Commission does not consider that the presence of these entities alone causes markets to be distorted, it does consider that the presence of these entities is likely to result in the GOC's plans and directives being adhered to. The Commission also considers that the support provided to these entities by the GOC has enabled many of them to be operated on non-commercial terms for extended periods, significantly impacting supply and pricing conditions within the domestic Chinese market.[69] Examples of these support mechanisms include government subsidies, support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees) and loans from state-owned banks.[70]

The Commission considers these mechanisms have supported the rapid expansion of steel production capacity in the SOE segment, in spite of repeated attempts by the Central Government to reduce the scale of steel production. It is also the Commission's view that these support mechanisms have created rigidities in the way recipient firms respond to price and profit signals, and hence have significantly contributed to the excessive investment in capacity, excess steel production and distorted prices.

The significance of SOEs to the broader Chinese economy, including the steel industry, is also reflected in the State Council of China's *Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation* (the *Guidance*).[71] When it introduced the *Guidance*, the State Council noted the important role of SOEs in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The *Guidance* also indicates that the State Council will deepen reform of SOE policies and arrangements to optimise state owned capacity allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation include the 'safeguard measures' theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures more generally.

---

67 Mattera, G. and F. Silva (2018), State enterprises in the steel sector, OECD Science, Technology and Industry Policy Papers, No. 53, OECD Publishing, Paris.

68 World Bank, *China 2030: Building a Modern, Harmonious, and Creative Society*, Report No. 96299 (March 2013), page 25.

69 Anti-Dumping Commission, *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission August 2016*, page 47.

70 Liu. H & Song. L, 2016, page 348.

71 State Council issues guideline on reorganization of SOEs, available here.

### A5.2 Initiatives influencing Chinese steel markets

The Commission recognises that in recent years the GOC has taken significant steps to restructure and reorganise the domestic steel industry to better manage the level of excess production capacity, oversupply and environmental concerns.

Specific initiatives announced in recent years to address imbalances in the Chinese steel markets include the Central Government's supply-side reform initiatives, *Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry* (*GOC Advice*) and *The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry* (*GOC Opinions*).

The *GOC Opinions* strictly forbids the registration of new production capacity in any form and demands that any production that does not meet environmental, energy consumption, quality, safety or technical standards be taken offline.[72]

Examples of these capacity management measures announced include tightening bank lending to smaller mills, industry consolidation through mergers and acquisitions, and use of stricter environmental requirements to forcibly shut down capacity.[73] While noting these efforts are targeted at correcting current imbalances and resulting distortions, the Commission considers them to be evidence of the extent of the GOC's involvement within and influence over the broader steel industry during the review period.

In 2016, the GOC announced a target to eliminate crude steel capacity by 100 to 150 million tonnes by 2020.[74] However in 2020 steel capacity is still expanding due to three main factors, the replacement of long idled capacity, improved technology and unapproved expansions.[75]

The effectiveness of the GOC's attempts to address overcapacity through mergers and acquisitions has been constrained by the GOC's desire to:

- replace older mills with new larger and more efficient mills; and
- close smaller mills to offset the commissioning of new larger mills.

Its impact to date has been to increase production and exacerbate existing structural imbalances.

In 2016, China set a target that 60 per cent to 70 per cent of steel should be produced by the top 10 steel groups by 2025.[76] Examples of industry's response to these directives is reflected in the restructuring of Baosteel Group and Wuhan Iron and Steel Group, whose merger created the China Baowu Steel Group[77], which in 2018 was the largest producer of crude steel in China and the second largest worldwide.

---

72 KPMG, 2016. *The 13th 5 Year Plan: China's Transformation and Integration with the World Economy*, page 29. Sourced from *GOC Opinions*, State Council, 4 February 2016.

73 Platts, 2016. Global Market Outlook, Steel Business Briefing, January 2016, page 14.

74 Reserve Bank Of Australia (2018), available here

75 S&P Global Platts, 30 January 2020, available here

76 XinhuaNet, 23 April 2019, available here

77 S&P Global Market Intelligence, Baosteel-Wuhan combination to be named China Baowu Steel, 2016, available here

In citing the GOC's ongoing interventions within the domestic steel industry, it is the Commission's view that these attempts to address existing structural imbalances have had limited success to date.

### A5.3 Industry planning guidelines and directives

The extent of the GOC's involvement is reflected through the numerous planning guidelines and directives regarding the industry's structure and composition.

There have been a number of GOC policies, plans and initiatives relevant to the China steel industry published over many years, including the *National Steel Industry Development Policy* (2005), the *Blueprint for the Adjustment and Revitalisation of the Steel Industry* (2009) and the *2011-2015 Development Plan for the Steel Industry* (2011). Other major planning guidance and directives include:

- Steel Industry Adjustment Policy (2015 Revision).
- Circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy.
- State Council Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation.
- The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry of Gain Profit and Development (2016).

Some of the current key themes and objectives of major GOC planning guidance and directives used to influence the structure of the Chinese steel industry include:

1. **13th Five-Year Plan for National Economic and Social Development of the People's Republic of China (2016-2020)**
    - Develop China into a manufacturing powerhouse.
    - Address overcapacity in steel and coal industries through mergers, reorganisations, debt restructurings, bankruptcy liquidations.
    - Environmental governance and protection initiatives to transform enterprises such as those in the steel industry that cannot consistently meet emissions standards.
    - Reduce taxes and fees for enterprises by lowering the proportion of their VAT and turnover taxes.
    - Reform of SOEs by ensuring SOEs grow stronger, better, and bigger, and help them exercise a greater level of influence and control over the economy and enabling it to contribute more effectively to accomplishing national strategic objectives.
    - Encourage more of China's equipment, technology, standards and services to go global through overseas investment, equipment exporting, project contracting, with a focus on industries such as steel and non-ferrous metals.

2. **The Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)**
    - Removal of 100 to 150 million tonnes of capacity between 2016 and 2020.
    - Raising of capacity utilisation rates to 80 per cent by 2020.
    - Further industry consolidation leading to 10 largest producers accounting for 60 per cent of production by 2020.

### 3. Made in China 2025

- Upgrade the Chinese manufacturing industry, make it more efficient, promote innovation and focus on quality
- Raise domestic content of essential components and key materials to 40% by 2020 and 70% by 2025.
- Promote technology upgrading, improve design, manufacturing, and management in industries such as steel.
- Further relax controls over market entry by revising industrial policy in the steel, chemical and shipping industries.

### 4. Blue Sky Action Plan (2018-2020)

- Improve air quality to achieve blue sky outcome
- Reduce air pollution by focusing on winter production cuts across major steel producing regions
- Steel production capacity to be reduced to within 200 million tons by 2020 in Hebei province

The Transformation and Upgrade Plan for the Iron and Steel Industry (2016-2020) was formulated according to the "Thirteenth Five-Year Plan for National Economic and Social Development of the People's Republic of China", "Made in China 2025" and "State Council's Opinions on Resolving Overcapacity in the Iron and Steel Industry to Realize the Development of Relief ", as a guidance document for the development of China's iron and steel industry.[78]

The five-year plans sets forth China's strategic intentions and defines its major objectives, tasks, and measures for economic and social development. The plans serve as a guide to action for market entities.

China's 14th Five-Year Plan (2021-2025) is currently being prepared and is not expected to be approved until 2021.

In assessing the relevance of these planning guidelines and directives, the Commission notes the importance of the GOC's national five year plans which provide the overarching framework for the industry and local government plans. Regarding industry specific planning guidelines and directives, the Commission notes, but does not agree with, the GOC's previously expressed view that they are for guidance and are not enforceable.[79] Mechanisms through which the Commission considers the GOC is able to enforce these guidelines and directives include the presence and role of SOEs within the broader steel industry, the role of the National Development and Reform Commission (NDRC) and explicit enforcement mechanisms.

SOEs' significant share of total Chinese steel production, and propensity to follow government guidance and directives, ensures that the GOC is able to influence broader trends in industry capacity and steel production. Similarly, the NDRC, through its dual role of developing planning guidelines and directives and approving large scale investment projects, has the capacity to ensure that the broader objectives of the central government are implemented. Explicit enforcement mechanisms detailed within directives, such as the

[78] See INV 466, EPR 11, Attachment 1, Transformation and Upgrade Plan for the Iron and Steel Industry (2016-2020)

[79] International Trade Remedies Branch Report No. 177 (REP 177), page 123

State Council notice on *Further Strengthening the Elimination of Backward Production Capabilities and Guidelines*, includes a range of sanctions, such as revocation of pollutant discharge permits, restrictions on the provision of new credit support, restrictions on the approval of new investment projects, and restrictions on the issuing of new (and cancelling of existing) production licenses.[80]

A further example of the GOC's use of planning guidelines and policy directives to achieve its objective can be seen in the GOC's *Standard Conditions of Production and Operation of the Iron and Steel Industry*. It is the Commission's understanding that this document sets out the minimum requirements for production and operation in the Chinese steel industry. Firms are incentivised to comply with the standard conditions, as doing so provides the basis for policy support. In contrast, firms that do not conform are required to reform, and if they still fail to conform, must gradually exit the market.[81]

The Commission therefore considers that the GOC's historic and continued involvement within the Chinese steel industry, through its policies, planning guidelines, plans and directives, materially contributed to the steel industry's overcapacity, oversupply and distorted structure during the review period. It is the Commission's view that the prices of steel billet would be substantially different in a market not characterised by GOC influence.

### A5.4 Direct and indirect financial support

The nature of support provided by the GOC to the Chinese steel industry is also documented through previous investigations undertaken by the Commission. Examples of the types of subsidies provided to the Chinese steel industry include preferential loans and directed credit, preferential tax and direct cash grants. It is the Commission's view that these subsidy programs have directly contributed to conditions within the Chinese steel industry and steel rod in coil market during the review period by providing direct and indirect financial support to recipient steel producers.

These subsidies reduce the operating costs of Chinese steel enterprises, confer a competitive advantage through the ability to offer steel products at lower prices. This type of financial support not only inflates the profitability of recipient firms encouraging an expansion of supply but also supports otherwise unprofitable producers, delaying their timely exit from the industry.

### A5.5 Taxation arrangements

The Commission has previously identified evidence of export taxes and export quotas on a number of key inputs in the steel making process, including coking coal, coke, iron ore and scrap steel in *Anti-Dumping Commission Report No. 198*.[82] The Commission found that these measures would keep input prices artificially low and create significant incentives for exporters to redirect these products into the domestic market, increasing domestic supply and reducing domestic prices to a level below what would have prevailed under normal competitive market conditions.

---

80 REP 177, page 128.

81 Announcement on the *Standard Conditions of Production and Operation of the Iron and Steel Industry*. Included in the context of REP 177 on the [EPR for that case](EPR for that case).

82 Anti-Dumping Commission, 2013, Report Number 198, pp. 41-43.

The GOC has traditionally operated, amongst other taxation arrangements, a VAT and a VAT rebate system for certain exports. Under the Chinese VAT system, up to 17 per cent tax is paid on consumption of goods, including the inputs used in the production of steel. For goods produced and sold within China, the tax is ultimately paid by the final consumers of the particular good. Because it is difficult for exporters to pass these taxes on, some steel exporters have traditionally been compensated for VAT paid during the production process through VAT rebates.

Through altering the VAT rebates and taxes applied to steel exports, the GOC is able to alter the relative profitability of different types of steel exports and of exports compared to domestic sales. For example, by either reducing VAT rebates or increasing export taxes on steel exports, the GOC is able to reduce the relative profitability of exports to domestic sales and hence provide significant incentives for traditional exporters to redirect their product into the domestic Chinese market. By using these mechanisms to alter the relative supply of particular steel products in the domestic market, the GOC is also able to influence the domestic price for those products.

During the review period, the applicable VAT rebate rate for steel rod in coil was 13 per cent, resulting in a zero per cent applied VAT rate by the last quarter of the review period.[83] While this differential would have created an incentive to export steel rod in coil, export taxes may apply to these goods. However, in the absence of a response to the government questionnaire from the GOC, the Commission is unable to further comment on this issue.

### A5.6 China steel market

Figure 5 and 6 obtained from the ‘Resources and Energy Quarterly Dec 2019’[84] from the Department of Industry, Science, Energy and Resources, illustrates the profits made by the Chinese steel industry, particularly during 2017/18 where revenue exceeded cost by a substantial margin. In 2017, revenue reached above 4000 Chinese Yuan per tonne (CNY/T), costs just above 3000 CNY/T, and profit above 1000 CNY/T (Figure 4 refers). Since that period, profits have declined substantially with a loss in 2019.

---

83 The VAT rate during the review period was 13% (effective from 1 April 2019). Export VAT rebates: 13% (effective from 15 September 2018).

84 The Office of the Chief Economist, Department of Industry, Science, Energy and Resources – ‘Resources and Energy Quarterly December 2019’.


**Figure 5: Steel industry profits in China**[85]

China was the largest importer of iron ore in 2018, importing approximately 64 per cent of the world's imports, sourced mainly from Australia.[86] Iron ore is the primary raw material in the manufacture of steel and it can be observed that China's profit margins have fallen in 2018/19, coinciding with rising costs in iron ore and a decrease in revenue (Figure 5 refers).


**Figure 6: Iron ore price against China steel production growth**[87]

---

[85] Sourced from Bloomberg (2019) China Steel Profit Index as cited in 'Resources and Energy Quarterly December 2019'.

[86] World Steel Association - available here.

[87] Sourced from Bloomberg (2019) China import prices; World steel association, as cited in 'Resources and Energy Quarterly December 2019'.

### A5.7 SOEs in the steel market

As stated earlier, SOEs receive substantial subsidies and have access to lower cost of borrowing where credit allocation is skewed towards less efficient SOEs. The preferential treatments for SOEs can create market distortions and affect competitive neutrality.[88]

In 2018, sixteen of the top twenty steel producers in China were SOEs[89] and accounted for approximately 39 per cent of China's total crude steel production. As these figures only take into account the top twenty steel producers, there are potentially many more SOE producers which haven't been considered. Due to the number and size of these enterprises, the SOEs influence in the steel market cannot be underestimated.

Historically, many of the SOEs were loss making firms compared to the number of profitable private firms. In a competitive market, firms are motivated by profit maximization. If enterprises are not required to earn a commercial rate of return, they would be able to undercut competition by factoring lower profit margins into their pricing.[90] This places downwards pressure on steel prices and impacts the pricing behaviour of other firms.

| | Top 20 steel producers | Top 20 steel production (million tonnes) | China total production (million tonnes) |
|---|---|---|---|
| **SOE** | 16 | 361.7 | |
| **Non-SOE** | 4 | 95.3 | |
| **Total** | 20 | 457 | 928.3 |
| **% SOE** | 80% | 79% | 39% |

**Table 1: China's top 20 steel producers 2018**[91]

*Source: World Steel Association, ADC calculations*

A review of the subsidies received by the top Chinese steel producer in 2018 shows that government grants and preferential loans were received, as well as a preferential tax rate to one of its subsidiaries. The government subsidies are generally recorded under non-operating income, deferred income or other income in the financial statements.

Based on information held by the Commission and publicly available information, the standard rates and subsidised rates available to industry, subject to certain eligibility criteria, varies considerably as shown in the table below.

| 2018 | |
|---|---|
| **General** | **Subsidy** |
| Corporate income tax rate: 25% | Preferential tax rate: 15% |
| One year lending interest rate: 4.35% | One year lending interest rate: over 100 basis points less than the benchmark |

**Table 2: Standard and Preferential rates**

88 International Monetary Fund (IMF) (2019), IMF Country Report No. 19/274, People's Republic Of China.

89 SOEs include enterprises that are wholly or partly owned by the government

90 OECD (2012) Competitive Neutrality - A compendium of OECD recommendations, guidelines and best practices, available here.

91 World Steel Association - Top steelmakers in 2018, available here.

## A6 Conclusion

The Commission has determined that the GOC has exerted influence on the Chinese steel industry, which has distorted competitive market conditions in the steel industry in China. The GOC was able to exert this influence through its directives and oversight, subsidy programs, taxation arrangements and the significant number of SOEs. As a result, the Commission considers that there is a particular market situation in the domestic market for steel rod in coil.