



Australian Government
**Department of Industry, Science,
Energy and Resources**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS

NO. 590

**INQUIRY CONCERNING THE CONTINUATION OF
ANTI-DUMPING MEASURES APPLYING TO
HOLLOW STRUCTURAL SECTIONS
EXPORTED TO AUSTRALIA FROM
THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF
KOREA, MALAYSIA AND TAIWAN**

20 April 2022

CONTENTS

CONTENTS	2
ABBREVIATIONS	5
1 SUMMARY AND RECOMMENDATIONS	7
1.1 INTRODUCTION	7
1.2 PRELIMINARY FINDINGS	8
1.3 PROPOSED RECOMMENDATION	14
1.4 RESPONDING TO THIS SEF	16
1.5 FINAL REPORT	17
2 BACKGROUND	18
2.1 LEGISLATIVE FRAMEWORK	18
2.2 INITIATION AND CURRENT MEASURES	18
2.3 CONDUCT OF INQUIRY	21
2.4 SUBMISSIONS RECEIVED FROM INTERESTED PARTIES	25
3 THE GOODS AND LIKE GOODS	27
3.1 PRELIMINARY FINDING	27
3.2 LEGISLATIVE FRAMEWORK	27
3.3 THE GOODS	27
3.4 MODEL CONTROL CODE	30
3.5 LIKE GOODS	32
4 THE AUSTRALIAN INDUSTRY	34
4.1 PRELIMINARY FINDING	34
4.2 LEGISLATIVE FRAMEWORK	34
4.3 AUSTRALIAN INDUSTRY	34
4.4 PRODUCTION PROCESS	35
4.5 SUMMARY	35
5 AUSTRALIAN MARKET	36
5.1 PRELIMINARY FINDING	36
5.2 MARKET SIZE	36
5.3 MARKET STRUCTURE	36
5.4 PRICING	40
6 ECONOMIC CONDITION OF THE INDUSTRY	41
6.1 PRELIMINARY FINDING	41
6.2 APPROACH TO ANALYSIS	41
6.3 VOLUME EFFECTS	42
6.4 PRICE EFFECTS	43
6.5 PROFIT EFFECTS	46
6.6 OTHER ECONOMIC FACTORS	49
6.7 CONCLUSION	50
7 DUMPING IN THE INQUIRY PERIOD	52
7.1 PRELIMINARY FINDING	52
7.2 LEGISLATIVE FRAMEWORK	52
7.3 EXPORTERS	55
7.4 DUMPING ASSESSMENT – CHINA	60
7.5 DUMPING ASSESSMENT – REPUBLIC OF KOREA	66
7.6 DUMPING ASSESSMENT – MALAYSIA	70
7.7 DUMPING ASSESSMENT – TAIWAN	72
8 COUNTERAVAILABLE SUBSIDIES RECEIVED DURING THE INQUIRY PERIOD	79

PUBLIC RECORD

8.1	PRELIMINARY FINDING	79
8.2	LEGISLATIVE FRAMEWORK	79
8.3	SUBSIDY PROGRAMS	80
8.4	CALCULATION OF SUBSIDY MARGINS	83
8.5	SUMMARY OF SUBSIDY MARGINS	85
9	LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR	87
9.1	PRELIMINARY FINDING	87
9.2	LEGISLATIVE FRAMEWORK	87
9.3	AUSTRALIAN INDUSTRY'S CLAIMS	87
9.4	ARE EXPORTS LIKELY TO CONTINUE OR RECUR?	91
9.5	WILL DUMPING AND SUBSIDISATION CONTINUE OR RECUR?	94
9.6	WILL MATERIAL INJURY CONTINUE OR RECUR?	102
9.7	CONCLUSION	111
10	NON-INJURIOUS PRICE.....	113
10.1	PRELIMINARY ASSESSMENT OF THE NON-INJURIOUS PRICE.....	113
10.2	LEGISLATIVE FRAMEWORK	113
10.3	LESSER DUTY RULE EXCEPTIONS	114
10.4	UNSUPPRESSED SELLING PRICE	114
10.5	NON-INJURIOUS PRICE	115
10.6	COMMISSION'S ASSESSMENT	116
11	PROPOSED RECOMMENDATIONS AND MEASURES	117
11.1	PRELIMINARY RECOMMENDATIONS	117
11.2	CURRENT INTERIM DUMPING AND INTERIM COUNTERVAILING DUTY METHOD.....	118
11.3	INTERIM DUMPING DUTY METHODS AVAILABLE	118
11.4	INTERIM COUNTERVAILING DUTY METHODS AVAILABLE	118
11.5	AVOIDANCE OF 'DOUBLE-COUNTING'	119
11.6	CONCLUSION	120
	APPENDICES AND ATTACHMENTS	122
	APPENDIX A ASSESSMENT OF PARTICULAR MARKET SITUATION IN CHINA	124
A1	INTRODUCTION.....	124
A2	AUSTRALIAN LEGISLATION, POLICY AND PRACTICE.....	124
A2.1	LEGISLATION.....	124
A2.2	POLICY AND PRACTICE.....	125
A3	ASSESSING PARTICULAR MARKET SITUATION IN THIS INQUIRY	125
A4	THE GOC ROLE IN THE CHINESE STEEL MARKET	126
A4.1	OVERVIEW.....	126
A4.2	GOC POLICIES AFFECTING THE STEEL INDUSTRY	126
A4.3	INITIATIVES INFLUENCING CHINESE STEEL MARKETS	126
A4.4	INDUSTRY PLANNING GUIDELINES AND DIRECTIVES	128
A4.5	ROLE AND OPERATION OF SOES.....	132
A4.6	THE ROLE OF THE GOC IN PRIVATE FIRMS.....	134
A4.7	DIRECT AND INDIRECT FINANCIAL SUPPORT.....	134
A4.8	TAXATION ARRANGEMENTS.....	134
A5	COMPETITION IN CHINESE STEEL MARKETS.....	136
A6	GOC INFLUENCE ON THE CHINESE HOLLOW STRUCTURAL SECTIONS MARKET.....	136

PUBLIC RECORD

A6.1	SIGNIFICANCE OF HRC COSTS IN THE PRODUCTION OF THE GOODS.....	137
A6.2	COMPARISON OF RAW MATERIAL PRICES.....	137
A7	CONCLUSION	141
APPENDIX B	PROPER COMPARISON OF DOMESTIC AND EXPORT PRICES.....	142
B1	INTRODUCTION	142
B2	APPROACH TO PROPER COMPARISON	142
B3	EXAMINATION OF AUSTRALIAN CONDITIONS OF COMPETITION	143
B3.1	MARKET STRUCTURE	143
B3.2	RAW MATERIAL	143
B3.3	IMPORT PENETRATION IN THE AUSTRALIAN MARKET	144
B4	EXAMINATION OF CHINESE CONDITIONS OF COMPETITION	144
B4.1	MARKET STRUCTURE	144
B4.2	RAW MATERIAL	145
B4.3	IMPORT PENETRATION IN THE CHINESE MARKET	146
B5	RELATIONSHIP BETWEEN PRICE AND COST – CHINA	146
B5.1	CHINESE DOMESTIC PRICES.....	147
B5.2	CHINESE EXPORT PRICES.....	147
B5.3	CONCLUSION.....	148
B6	CONCLUSION	149
APPENDIX C	CONSTRUCTED NORMAL VALUES – CHINA.....	150
C1	APPLICABLE LEGISLATION, POLICY AND PRACTICE	150
C2	ESTABLISHING NORMAL VALUES	151
C3	THE RECORDS OF DALIAN STEELFORCE	151
C4	CALCULATION OF THE RAW MATERIAL COST ADJUSTMENT	153
APPENDIX D	ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS – CHINA.....	154
D1	INTRODUCTION	154
D1.1	DEFINITION OF GOVERNMENT, PUBLIC AND PRIVATE BODIES	154
D1.2	GOVERNMENT	154
D1.3	PUBLIC BODIES	154
D1.4	PRIVATE BODIES	155
D2	ASSESSMENT OF PROGRAMS	155
D2.1	PROGRAM 20: HOT ROLLED STEEL PROVIDED BY GOVERNMENT AT LESS THAN FAIR MARKET VALUE	155
D2.2	ASSESSMENT OF ALL OTHER PROGRAMS	158

ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Alpine Pipe	Alpine Pipe Manufacturing Sdn Bhd
the applicants	Austube Mills Pty Ltd and Orrcon Manufacturing Pty Ltd, collectively
APT	Australian Pipe & Tube Pty Ltd
Austube Mills, an applicant	Austube Mills Pty Ltd
China	the People's Republic of China
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dalian Steelforce	Dalian Steelforce Hi-Tech Co., Ltd
the Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
FIS	free in to store
GHRC	pre-galvanised hot rolled coil
Hengshui Jinghua	Hengshui Jinghua Steel Pipe Co., Ltd
Hi-Steel	Hi-Steel Co., Ltd
HRC	hot rolled coil
HSS, the goods	hollow structural sections
Hongtuo	Tianjin Youfa Hongtuo Steel Pipe Manufacture Co., Ltd
Huaxing	Tianjin Ruitong Huaxing International Trade Co., Ltd
Huludao	Huludao City Steel Pipe Industrial Co., Ltd
ICC	interim countervailing duty
ICD	interim dumping duty
the inquiry period	1 July 2020 to 30 June 2021
Korea	the Republic of Korea
Kukje	Kukje Steel Co., Ltd.
LTAR	less than adequate remuneration
Macsteel	Macsteel International Australia Pty Ltd
MCC	model control code
the Minister	the Minister for Industry, Energy and Emissions Reduction
mmt	million tonnes
NIP	non-injurious price
OECD	Organisation for Economic Co-operation and Development
OCOT	ordinary course of trade

PUBLIC RECORD

Orrcon, an applicant	Orrcon Manufacturing Pty Ltd
REP 177	<i>International Trade Remedies Branch Report No. 177</i>
REP 529	Anti-Dumping Commission Report No. 529
REQ	response to the exporter questionnaire
REV 529	<i>Review of Measures No. 529</i>
SEF	statement of essential facts
Shin Yang	Shin Yang Steel Co., Ltd
SOE	State-owned enterprise
Ta Fong	Ta Fong Steel Co., Ltd
Tension Steel	Tension Steel Industries Co., Ltd
Thailand	the Kingdom of Thailand
Tianjin Ruitong	Tianjin Ruitong Iron & Steel Co., Ltd
TKM	thyssenkrupp Materials Australia Pty Ltd
UAE	United Arab Emirates
USP	unsuppressed selling price
WTO	World Trade Organization
Yantai Aoxin	Yantai Aoxin International Trade Co., Ltd
Youfa International Trade	Tianjin Youfa International Trade Co., Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether to continue anti-dumping measures applying to certain hollow structural sections (HSS, or the goods) exported to Australia from:

- the People's Republic of China (China)
- the Republic of Korea (Korea)
- Malaysia
- Taiwan

(collectively, the subject countries).

The anti-dumping measures are in the form of a dumping duty notice applying to all subject countries and a countervailing duty notice applying to China only.¹

This SEF sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base recommendations to the Minister for Industry, Energy and Emissions Reduction (the Minister).

As set out in chapter 1.2 below, it concludes that for all but one exporter, on the evidence currently available, the Commissioner is satisfied that the expiration of the anti-dumping measures in respect of exports of the goods from the subject countries would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and subsidisation and the material injury that the anti-dumping measures are intended to prevent.

The anti-dumping measures are due to expire on 3 July 2022.²

The Commissioner initiated the inquiry on 22 September 2021³ following consideration of two applications lodged by:

- Austube Mills Pty Ltd (Austube Mills) and
- Orrcon Manufacturing Pty Ltd (Orrcon)⁴.

¹ The dumping duty notice does not apply to Kukje Steel Co., Ltd (Kukje) from Korea and the countervailing duty notice does not apply to Dalian Steelforce Hi-Tech Co, Ltd (Dalian Steelforce) and Huludao City Steel Pipe Industrial Co., Ltd (Huludao).

² Under section 269TM of the *Customs Act 1901* (the Act), dumping and countervailing duty notices expire 5 years after the date of publication, unless revoked earlier. If not continued, the anti-dumping measures would no longer apply on and from 4 July 2022.

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

³ Refer to Anti-Dumping Notice (ADN) No. 2021/122.

⁴ This report collectively refers to Austube Mills and Orrcon as 'the applicants'.

Both Austube Mills and Orrcon are persons specified under section 269ZHB(1)(b)(i) because an application under section 269TB from both Austube Mills and Orrcon resulted in the existing anti-dumping measures.

The Anti-Dumping Commission (the commission) is assisting the Commissioner conduct the inquiry, pursuant to the commission's function specified in section 269SMD.

1.2 Preliminary findings

Based on the evidence currently available, the Commissioner is satisfied that the expiration of the anti-dumping measures in respect of exports of the goods from China, Korea, except from Hi-Steel Co., Ltd (Hi-Steel), Malaysia and Taiwan would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and subsidisation and the material injury that the anti-dumping measures are intended to prevent.

Having regard to HiSteel's current and historical dumping margins, the Commissioner is not satisfied that the expiration of the anti-dumping measures in respect of exports of the goods from HiSteel would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and the material injury that the anti-dumping measures are intended to prevent.

Chapters 2 to 11 of this report provide the detail on the Commissioner's preliminary findings. Chapters 1.2.1 to 1.2.3 below provide a summary of these findings.

1.2.1 Continuation or reoccurrence of exports by the subject countries

The commission has had regard to import volumes, production capacity and the maintenance of supply links between Australia and the subject countries. Based on this information, the commission considers that, should the anti-dumping measures expire, exports from the subject countries are likely to continue because:

- imports have continued from China, Korea and Taiwan in each year since the measures were last continued in 2017
- while small in volume, imports have continued from Malaysia in 4 of the last 5 years and based on Malaysian export behaviour in comparable markets, in the absence of anti-dumping measures, Malaysian exporters would likely recommence exporting to Australia
- exporters maintain excess production capacity and have maintained distribution links to the Australian market.

Chapter 9.4 provides the detail of the commission's analysis.

1.2.2 Continuation or reoccurrence of dumping and subsidisation

In order to assess whether dumping and subsidisation of exports to Australia from the subject countries would likely continue or recur should the anti-dumping measures expire, the commission has obtained information relevant to the assessment of dumping and subsidisation for the inquiry period 1 July 2020 to 30 June 2021.

The commission contacted those exporters listed on the dumping duty and countervailing duty notice inviting them to provide information to the inquiry. Not all exporters listed on the notice provided information to the inquiry and so the Commissioner has determined these exporters as uncooperative (and hence no longer have a separate rate listed on the notice).⁵ The status of the 'Tianjin Youfa Group of companies' has also changed and as a result are also no longer listed on the notice.⁶

Table 1 provides the dumping and subsidy margins determined by the Commissioner in respect of the goods exported to Australia from the subject countries during the inquiry period, compared to the existing anti-dumping measures:

⁵ Chapter 2.3 provides further detail.

⁶ Chapter 7.3 provides further detail.

PUBLIC RECORD

Country	Exporter	Existing Dumping Margin	Existing Subsidy Margin	Proposed Dumping Margin	Proposed Subsidy Margin
China	Dalian Steelforce	9.1%	N/A	9.4%	N/A
	Huludao*	20.7%	N/A	30.4%	N/A
	Hengshui Jinghua Steel Pipe Co., Ltd (Hengshui Jinghua) ⁷	21.3%	45.6%	9.4%	0.0% ⁸
	Tianjin Ruitong Iron & Steel Co., Ltd (Tianjin Ruitong)	8.0%	3.6%	9.4%	8.4%
	Tianjin Youfa Group of companies*	15.6%	3.3%	30.4%	51.0%
	All other exporters ⁹	21.3%	45.6%	30.4%	51.0%
Korea	Hi-Steel	0%	N/A	-9.3%	N/A
	Kukje*	N/A		N/A	
	All other exporters (except Kukje)	2.8%		13.8%	
Malaysia	Alpine Pipe Manufacturing SDN BHD Company (Alpine Pipe)*	26.3%	N/A	20.8%	N/A
	All other exporters	27.2%		20.8%	
Taiwan	Shin Yang Steel Co., Ltd (Shin Yang)	0.5%	N/A	-0.7%	N/A
	Ta Fong Steel Co., Ltd (Ta Fong)	4.3%		-1.9%	
	Residual exporters (Tension Steel)	20.9% ¹⁰		-0.8%	
	All other exporters	20.9%		23.5%	

Table 1: Summary of existing and preliminary proposed dumping and subsidy margins

*Note: Table 1 includes Huludao, the Tianjin Youfa Group of companies, Kukje and Alpine Pipe. The Minister revoked the anti-dumping measures in respect of Kukje from 13 March 2021 following *Review of Measures No. 529* (REV 529). Kukje is accordingly

⁷ Hengshui Jinghua is currently included in the 'All other exporters' category.

⁸ The commission found that Hengshui Jinghua received countervailable subsidies in respect of the goods which rounds to 0.0% at one decimal place.

⁹ In this report, the term 'All other exporter' refers to any exporter from a particular country not specifically named.

¹⁰ For this inquiry, Tension Steel Industries Co., Ltd (Tension Steel) is a residual Taiwanese exporter, see section 7.3.1. Tension Steel was previously included in the 'All other exporters' category.

exempt from the anti-dumping measures.¹¹ The existing dumping duty and countervailing duty notice currently lists Huludao, the Tianjin Youfa Group and Alpine Pipe separately, but the Commissioner intends to recommend that the Minister list them separately on the proposed notice following this inquiry. This is because:

- Huludao did not cooperate with the inquiry and is therefore included in the Chinese 'All other exporters' category. See chapter 7.3.3
- Tianjin Youfa Group of companies no longer exists as it did when the variable factors were last ascertained in REV 529. Tianjin Youfa International Trade Co., Ltd (Youfa International Trade) and a related party, Tianjin Youfa Hongtuo Steel Pipe Manufacture Co., Ltd (Hongtuo) provided data to this inquiry, but both entities are no longer part of the Tianjin Youfa Group of companies. The Commissioner does not consider Youfa International Trade (or Hongtuo) is an exporter of the goods and has accordingly removed all reference to the former Tianjin Youfa Group of companies (or individual entities previously within that group) from the notices. The goods exported or supplied through the former Tianjin Youfa Group of companies will now attract the dumping and subsidy margins for the Chinese 'All other exporters' category. See chapter 7.3.2
- Alpine Pipe did not cooperate with the inquiry and is therefore included in the Malaysian 'All other exporters' category.

Chapters 7 and 8 detail the commission's determination of the dumping and subsidy margins.

After having determined the level of dumping and subsidisation during the inquiry period, the commission has then considered whether dumping and subsidisation will continue or recur in the absence of anti-dumping measures. This consideration is set out in detail in chapter 9.5, with a summary provided below.

China

Based on the prior and present behaviour of Chinese exporters in exporting goods at dumped (and for some exporters, subsidised) prices, which the commission considers is likely to continue, the commission considers that dumping (and subsidisation) by Chinese exporters would be likely to continue if the anti-dumping measures expired.

Korea

The commission found that Korean exporter HiSteel did not dump the goods during the inquiry period. The commission considers HiSteel maintains a price advantage over low priced exports from countries not subject to the anti-dumping measures, as well as Australian industry, and has steadily grown its sales volumes and market share at undumped prices. Accordingly, the commission does not consider it likely that HiSteel

¹¹ The Minister revoked measures in respect of Kukje Steel Co., Ltd from Korea from 13 March 2021. Following REV 529, the Minister was not satisfied that revoking the measures applying to Kukje would lead, or be likely to lead, to a recurrence of the dumping and the material injury that the anti-dumping measures are intended to prevent. Kukje is accordingly exempt from the anti-dumping measures. See ADN No. 2021/11.

would reduce its prices to dumped levels should the anti-dumping measures expire. The Commissioner is therefore not satisfied that the expiration of the anti-dumping measures in respect of exports of the goods from HiSteel would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping that the anti-dumping measures are intended to prevent.

The commission determined that the all other Korean exporters dumping margin for the inquiry period is 13.8%. The commission has observed that at all times during the inquiry period, the export price for these exporters is higher than the two largest exporters of goods from Korea, Kukje and HiSteel. The commission considers that in the absence of the anti-dumping measures, all other Korean exporters would have an incentive to reduce export prices to be more competitive with Kukje and HiSteel. Any such reduction in export prices would likely result in the exported goods being dumped at higher levels.

Based on this analysis, and the dumping margin determined for the inquiry period, the commission considers that dumping by all other Korean exporters would be likely to continue if the anti-dumping measures expired.

Malaysia

The commission determined that the all other Malaysian exporter dumping margin for the inquiry period is 20.8%. The only information provided to the commission in this inquiry in respect of Malaysian exporters was from Austube Mills. Austube Mills submitted that, historically, Malaysian exporters have altered their patterns of trade (i.e. reduced sales volumes) because the anti-dumping measures have been effective. Austube Mills consider that, in the absence of the anti-dumping measures, Malaysia exporters would likely recommence exporting to Australia, and at dumped prices. The commission made a similar finding on likely Malaysian exporter activity in the absence of the anti-dumping measures in the most recent review of exports of the goods from Malaysia, REV 529.

In light of current and historical dumping of goods by Malaysian exporters, the commission considers that exports from Malaysian exporters at more significant volumes would likely recur at dumped prices if the anti-dumping measures expired.

Taiwan

The commission calculated a negative dumping margin for Shin Yang and Ta Fong (-0.7% and -1.9% respectively) during the inquiry period. However, the negative dumping margin is on a weighted average basis for the inquiry period, noting that there was some dumping of the goods in various quarters of the inquiry period.

The commission considers that the landed duty free prices of both Shin Yang and Ta Fong are relatively uncompetitive compared to other exporters' landed duty free prices in the Australian market. The commission considers that in the absence of the anti-dumping measures, both Shin Yang and Ta Fong would likely reduce export prices (to lower the landed duty free price) to regain price competitiveness with other exporters. Given that the dumping margins are only marginally negative, this decrease in export price would likely result in the recurrence of dumping.

The commission has determined the export price for residual and all other Taiwanese exporters based on the export prices of Shin Yang and Ta Fong. Accordingly, the commission considers that, like with Shin Yang and Ta Fong, the expiry of the anti-dumping measures would likely result in a decrease in export prices and consequently in a reoccurrence of dumping by residual exporters and a higher level of continued dumping by all other Taiwanese exporters.

1.2.3 Continuation or reoccurrence of material injury

After having found that, should the anti-dumping measures expire, exports from Korea (other than exports from HiSteel), Malaysia and Taiwan are likely to continue or recur at dumped prices and exports from China are also likely to continue or recur at dumped and subsidised prices, the commission considered whether this would lead, or would be likely to lead, to a continuation or recurrence of the material injury that the anti-dumping measures are intended to prevent. Chapter 9 provides the details of this analysis.

Likely effect on prices, revenue and profitability¹²

The commission considers that the Australian market for the goods is a commodity market with price the major factor in purchasing decisions. To consider the likely impact the expiry of the anti-dumping measures might have on prices, the commission has analysed:

- landed duty free prices of imports from the subject countries as well as significant sources of imports not subject to anti-dumping measures
- price undercutting within the Australian market during the inquiry period.

Based on its analysis, the commission considers that if the anti-dumping measures were to expire, exporters from the subject countries would likely reduce prices to compete with the lower priced exports not currently subject to the anti-dumping measures (as well as the lower prices offered by HiSteel).

The commission considers it is reasonable to conclude that the Australian industry would respond to lower priced imported goods previously subject to the anti-dumping measures by reducing prices in order to remain competitive and maintain its sales volumes. These lower prices would be likely to lead to a recurrence of injury to the Australian industry in the form of price depression, as well as other factors related to price, including sales revenue, profit and profitability.

Likely effect on volumes¹³

The commission notes that during the inquiry period, the Australian market experienced some growth, with Australian industry able to capture a slightly larger proportional share of that growth compared to imports. However, the commission considers that had the COVID-19 pandemic not disrupted global supply chains during the inquiry period, export

¹² Chapter 9.6.1 sets out this analysis.

¹³ Chapter 9.6.2 sets out this analysis.

volumes from the subject countries and other countries would likely have been higher. As supply chains stabilise, the Australian industry's gains in sales volume and market share during the inquiry period will be vulnerable to competition from exports as a result of a likely increase in export volumes. Chapter 5.3 discusses this issue.

In the absence of the anti-dumping measures, the commission considers it likely that those exporters currently subject to the anti-dumping measures would reduce prices to compete with lower priced exports from other countries. The commission considers it also likely, in the event that Australian industry is unable to reduce prices in line with reduced prices, that Australian industry would lose market share, which in turn would lead to a reduction in sales volume.

The commission is therefore satisfied that the expiration of the anti-dumping measures would be likely to lead to a recurrence of injury to the Australian industry in the form of reduced sales volume and market share, as well as other factors related to volume injury, such as profit, profitability and capacity utilisation.

Is injury likely to be material?¹⁴

The commission considers that the continuation or recurrence of dumped and subsidised exports from China, Korea, Malaysia and Taiwan would put downward pressure on prices in the Australian market. As a consequence, Australian industry would likely experience price depression and/or a material erosion in the improvements made since the measures were continued in relation to sales volumes, market share, sales revenue, profit and profitability. The commission considers that the combination of these factors would meet the threshold of material injury.

Accordingly, the commission considers that the expiration of the anti-dumping measures as they relate to exporters from the subject countries would be likely to lead to a continuation of, or a recurrence of, the material injury that the current measures are intended to prevent, including in the form of lower sales volumes, lower market share, lower sales revenue, lower profit and lower profitability.

1.3 Proposed recommendation

As outlined in detail at chapter 11, based on the commission's preliminary findings, the Commissioner proposes to recommend that the Minister:

- take steps to secure the continuation of the dumping duty notice applicable to the goods exported from China, Korea (except Kukje, who is already exempt, and HiSteel), Malaysia and Taiwan
- take steps to secure the continuation of the countervailing duty notice applicable to the goods exported from China (except Dalian Steelforce and Huludao who are already exempt from the countervailing duty notice)

¹⁴ Chapter 9.6.3 discusses in detail the commission's assessment of the materiality of injury.

PUBLIC RECORD

- take steps to cease the application of the dumping duty notice on the goods exported by HiSteel
- alter the variable factors for the dumping duty notice in relation to all exporters of the goods exported from China, Korea (except Kukje and HiSteel), Malaysia and Taiwan
- alter the variable factors for the countervailing duty notice in relation to all exporters of the goods exported from China (except Dalian Steelforce and Huludao).

After taking into account the non-injurious price (NIP, discussed in chapter 10) and avoiding a double-count of anti-dumping measures in respect of subsidised raw material inputs (discussed in chapter 11.5), the Commissioner proposes to recommend that the Minister change the variable factors,¹⁵ which will result in updated interim dumping duty (IDD) and interim countervailing duty (ICD) rates, as set out in the table below:

Country	Exporter	IDD		ICD	Combined rate
		Proposed duty method	Effective IDD rate	<i>Ad valorem</i>	
China	Dalian Steelforce	Combination	9.4%	N/A	9.4%
	Hengshui Jinghua ¹⁶		9.4%	0.0% ¹⁷	9.4%
	Tianjin Ruitong ¹⁸		1.0%	8.4%	9.4%
	Huludao ¹⁹		30.4%	N/A	30.4%
	All other exporters		22.0%	26.3% ²⁰	48.3%
Korea	Hi-Steel	None	N/A	N/A	N/A
	All other exporters	Combination	13.8%		13.8%
Malaysia	All other exporters	Combination	20.8%		20.8%
Taiwan	Shin Yang	Floor price	0.0%		0.0%
	Ta Fong	Floor price	0.0%		0.0%
	Residual exporters (Tension Steel)	Floor price	0.0%		0.0%
	All other exporters	Combination	23.5%		23.5%

Table 2: Summary of proposed effective IDD and ICD

¹⁵ The variable factors relevant to the dumping duty notice are the normal value, the export price and the NIP (section 269T(4D)(a) refers). The variable factors relevant to the countervailing duty notice are the export price, the amount of countervailable subsidy received and the NIP (section 269T(4D)(b) refers). If the anti-dumping measures are continued, the commission considers that it is appropriate to establish a contemporary basis for calculating the payment of interim duty.

¹⁶ Residual exporter IDD rate. See chapter 7.4.2.

¹⁷ The commission found that Hengshui Jinghua received countervailable subsidies in respect of the goods which rounds to 0.0% at one decimal place.

1.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister. This SEF represents an important stage in the inquiry. 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.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The Commissioner will consider submissions made within 20 days of the SEF in making a final report to the Minister.

The due date to lodge written submissions in response to this SEF is **10 May 2022**.

As the report to the Minister is due **1 June 2022**, the Commissioner is unlikely to consider any submission made in response to the SEF received after 10 May 2022 if in the opinion of the Commissioner, to do so would prevent the timely preparation of the report to the Minister. It is likely that any late submissions would prevent timely preparation of the report and no extension of time to submit the report to the Minister is possible.

Submissions may be provided by email to investigations3@adcommission.gov.au

Alternatively, interested parties may post submissions to:

Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. Information in relation to making submissions is available on the commission's website at www.adcommission.gov.au

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the commission's visit reports and other publicly available documents. The electronic public record (EPR) is available via the commission's website. Interested parties should read this SEF in conjunction with other documents on the EPR.

¹⁸ Tianjin Ruitong has been found to be dumping at a residual rate of 9.4%, but the dumping margin has been adjusted to avoid a 'double-count'. See chapter 11.5

¹⁹ Huludao is classed as an uncooperative exporter for the purposes of IDD and is exempt from ICD.

²⁰ NIP is operative. See chapter 10.6.2.

1.5 Final Report

The Commissioner's must provide the final report and recommendations to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.²¹

The Commissioner must report to the Minister by no later than **1 June 2022**.

²¹ Section 269ZHF(1). On 14 January 2017 the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see ADN No. 2017/010.

2 BACKGROUND

2.1 Legislative framework

Division 6A of Part XVB sets out, among other things, the procedures the Commissioner must follow when considering an application for the continuation of anti-dumping measures.

Section 269ZHE(1) requires the Commissioner to publish a SEF to propose recommendations to the Minister concerning the continuation of the anti-dumping measures. Section 269ZHE(2) specifies that the Commissioner must have regard to the application and any submissions received within 37 days of the initiation of the inquiry. The Commissioner may also have regard to any other matters that the Commissioner considers relevant.

Under section 269ZHF(4), the Commissioner is not obliged to have regard to any submissions made in response to the SEF that are received after the end of the 20 day period referred to in section 269ZHF(3)(a)(iv) if to do so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister.

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice either:

- remain unaltered
- cease to apply to a particular exporter or to a particular kind of goods
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained
- expire on the specified expiry day.

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures, unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

2.2 Initiation and current measures

The anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice, were initially imposed on 3 July 2012 by the then Minister for Home Affairs following consideration of *International Trade Remedies Branch Report No. 177* (REP 177).²²

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB by Austube Mills and Orrcon who represented

²² Australian Customs Dumping Notice No. 2012/31 refers. REP 177 is available on the commission's website.

the Australian industry producing like goods to the goods subject to the anti-dumping measures.

On 21 June 2017, the then Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science varied the anti-dumping measures and secured the continuation of the anti-dumping measures. This followed consideration of the then Commissioner's recommendation in *Anti-Dumping Commission Report No. 379* (REP 379) in Continuation Inquiry No. 379 (CON 379).²³

The anti-dumping measures are due to expire on 3 July 2022²⁴.

Table 3 below sets out a summary of key cases in relation to the goods.

Case type and report no.	ADN No.	Date	Country of export	Findings
Investigation REP 177	2012/31	3 July 2012	China, Korea, Malaysia and Taiwan	Dumping duty and countervailing duty notices published
Reinvestigation REP 203	2013/35	13 May 2013	China, Korea, Malaysia and Taiwan	REP 177 affirmed with a variation to the dumping duty notice in relation to Dalian Steelforce
Federal Court decision ²⁵	2016/09	17 February 2016	China	Revised dumping duty notice in relation to Dalian Steelforce. Countervailing duty notice no longer applicable to Dalian Steelforce
Anti-circumvention REP 291	2016/24	18 March 2016	China Korea, and Malaysia	Dumping duty and countervailing duty notice amended to expand tariff classifications covered for certain exporters found to have engaged in a circumvention activity
Continuation REP 379	2017/70	21 June 2017	China, Korea, Malaysia and Taiwan	Continuation of anti-dumping measures. Variation of the dumping duty and countervailing duty notices
Review REP 419	2018/74	6 June 2018	China Korea, Malaysia and Taiwan	Variation of the dumping duty and countervailing duty notices
Review REP 529	2021/11	9 March 2021	China, Korea, Malaysia, Taiwan (and Thailand) ²⁶	Variation of the dumping duty and countervailing duty notices. Anti-dumping measures revoked with respect to Kukje.

Table 3: Summary of cases undertaken in relation to the goods

²³ ADN No. 2017/70 refers. REP 379 is available on the commission's website.

²⁴ On and from 4 July 2022, if not continued, the anti-dumping measures would no longer apply.

²⁵ ADN No. 2016/09 refers. The judgment in *Dalian Steelforce Hi-Tech Co Ltd v Minister for Home Affairs* [2015] FCA 885 is available on the Federal Court of Australia's website.

Table 4 below sets out the current measures applying to exports of the goods to Australia.

Country	Exporter	Dumping notice		Countervailing duty notice	
		Method	Effective IDD rate	Method	Effective ICD rate
China	Huludao City Steel Pipe Industrial Co., Ltd	Combination	20.7%	Not applicable	
	Dalian Steelforce Hi-Tech Co., Ltd		9.1%	Not applicable	
	Tianjin Youfa International		15.6%	Proportion of export price	3.3%
	Tianjin Ruitong Iron & Steel Co., Ltd		8.0%		3.6%
	All other exporters		21.3%		45.6%
Korea	Kukje Steel Co., Ltd	Exempt		Not applicable	
	Hi-Steel Co., Ltd	Floor price	Not applicable		
	All other exporters	Combination	2.8%		
Malaysia	Alpine Pipe	Combination	26.3%	Not applicable	
	All other exporters		27.2%		
Taiwan	Ta Fong Steel Co., Ltd	Combination	4.3%	Not applicable	
	Shin Yang Steel Co., Ltd		0.5%		
	All other exporters		20.9%		

Table 4: Current measures applying to exports of the goods

Further details on the current measures is available on the Dumping Commodity Register at www.adcommission.gov.au

2.3 Conduct of inquiry

The commission established an inquiry period of 1 July 2020 to 30 June 2021 (the inquiry period). The commission also examined data from the Australian Border Force (ABF) import database for the period 1 July 2012 to 30 June 2021 and financial data from Austube Mills and Orrcon from 1 July 2016 to 30 June 2021 for the purpose of analysing trends in the market for the goods and assessing the continuation or recurrence of injury.

2.3.1 Statement of essential facts and Report to the Minister

The initiation notice advised the Commissioner would publish the SEF on the public record by 10 January 2022. However, the Commissioner approved extensions of time for the publication of the SEF and Final Report. The Commissioner will now publish the SEF

²⁶ Separate anti-dumping measures were imposed in relation to Thailand following Investigation no 254. However, these anti-dumping measures since expired on 27 July 2020.

on or before 20 April 2022²⁷. The Commissioner will provide the Final Report to the Minister on or before 1 June 2022.

2.3.2 Australian industry

The Commissioner is satisfied that the applicants each are a person specified under section 269ZHB(1)(b)(i), being a person whose application under section 269TB resulted in the imposition of the anti-dumping measures.

Austube Mills is both an Australian manufacturer of like goods and an importer of the goods. The commission conducted virtual verifications of the information provided by the applicants in each application, and the information provided by Austube Mills in its response to the importer questionnaire. The commission published verification reports in relation to the verifications of Austube Mills and Orrcon on the EPR.²⁸

2.3.3 Importers

The commission identified several entities in the ABF import database who had imported the goods from the subject countries. The commission forwarded 5 importer questionnaires to identified importers and placed a copy of the importer questionnaire on the commission's website for completion by other importers the commission did not contact directly. The commission received a response from the following 4 importers:

- Austeel Trading Pty Ltd (Austeel)²⁹
- Austube Mills
- GP Marketing International Pty Ltd
- Macsteel International Australia Pty Ltd (Macsteel).

In addition to a virtual verification of the information provided by Austube Mills in its response to the importer questionnaire, the commission conducted one further virtual verification of Macsteel. The commission considered verification of these 2 exporters was sufficient (in addition to further verification of Australian industry and selected exporters) to analyse relevant subject country importer data in this inquiry.

2.3.4 Exporters

The commission identified the exporters of the goods from the subject countries using data in the ABF import database.

2.3.5 Exempt exporters

As detailed in Table 4:

²⁷ See ADN No. 2022/004, EPR 590, No. 014 and ADN No. 2022/028, EPR 590, No. 20.

²⁸ EPR 590, Nos. 24 and 25

²⁹ Previously known until 2020 as Steelforce Trading Pty Ltd.

- Chinese exporters Dalian Steelforce and Huludao are subject to the dumping notice, but are exempt from the countervailing duty notice in respect of the goods
- Korean exporter Kukje is exempt from all anti-dumping measures in respect of the goods.

Any reference to the application of measures to Chinese and Korean exporters is read noting the above.

2.3.5.1 China

Exports of the goods from the following exporters from China are currently subject to measures:

- Dalian Steelforce
- Huludao
- Tianjin Youfa International
- Tianjin Ruitong
- All other exporters

As outlined in the initiation notice, the Commissioner proposed to make findings, with respect to the dumping duty notice for exports of the goods from China, on the basis of the information obtained from an examination of a selected number of exporters.³⁰

In relation to the countervailing duty notice for exports from China, the Commissioner advised that the commission will examine all Chinese exporters (except for Dalian Steelforce and Huludao who are exempt from countervailing measures).

The Commissioner selected Dalian Steelforce and Youfa International Trade for examination in respect of the dumping duty notice.

Data obtained from the ABF import database indicates that these entities represent more than 96% of the volume of the goods from China (measured by statistical quantity reported in tonnes) exported to Australia during the inquiry period.

The commission contacted Dalian Steelforce and Youfa International Trade directly, providing them with a selected exporter questionnaire and inviting them to participate in the inquiry by returning a completed response to the exporter questionnaire (REQ). The commission also placed a copy of the selected exporter questionnaire on its website.

³⁰ Section 269TACAA(1) states that where the number of exporters from a particular country of export in relation to an investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from a selected number of those exporters. Selected exporters either constitute a statistically valid sample of those exporters or are responsible for the largest volume of exports to Australia that can be reasonably examined.

Both Dalian Steelforce and Youfa International Trade provided an REQ, which are available on the EPR.³¹

The commission forwarded Huludao and Tianjin Ruitong a non-selected exporter questionnaire. The commission also placed a copy of the exporter questionnaire for non-selected exporters from China on its website.

The commission received a selected REQ China from both Tianjin Ruitong and Tianjin Ruitong Huaxing International Trade Co. Ltd (Huaxing), rather than a non-selected exporter response. The commission did not extend the inquiry to include these entities as a selected exporters, but did use the information provided in its assessment of Tianjin Ruitong and Huaxing, who are related entities³².

The commission received a non-selected REQ from Hengshui Jinghua and Yantai Aoxin International Trade Co., Ltd (Yantai Aoxin).

Chapter 7.3 discusses further the status of each of these entities.

2.3.5.2 Korea, Malaysia and Taiwan

The following entities from Korea, Malaysia and Taiwan are currently subject to measures:

- Hi-Steel from Korea
- Alpine Pipe Manufacturing Sdn Bhd (Alpine Pipe) from Malaysia
- Shin Yang from Taiwan
- Ta Fong from Taiwan

The commission contacted these entities, providing them with an exporter questionnaire and inviting them to participate in the inquiry by returning a completed questionnaire.

The commission placed a copy of the exporter questionnaire for Korea, Malaysia and Taiwan on its website for voluntary completion by other exporters.

The commission received a REQ from each HiSteel, Shin Yang and Ta Fong. Tension Steel from Taiwan also provided a REQ within the required timeframe.

The commission received no response from any Malaysian exporters.

Chapter 7.3 discusses further the status of each of these entities.

³¹ EPR 590, Nos. 5 and 18

³² Tianjin Ruitong REQ, p13.

2.3.6 Summary of exporter responses

The table below provides a summary of the exporters and their status as part of the inquiry.

Country	Respondent	Questionnaire
China	Dalian Steelforce	Selected REQ received
	Youfa International Trade	Selected REQ received
	Tianjin Ruitong	Selected REQ received
	Hengshui Jinghua	Non-selected REQ received
	Yantai Aoxin	Non-selected REQ received
	Huludao City	No response received
	All other exporters	No response received
Korea	Hi-Steel	REQ received
	All other exporters	No response received
Malaysia	Alpine Pipe	No response received
	All other exporters	No response received
Taiwan	Ta Fong	REQ received
	Shin Yang	REQ received
	Tension Steel	REQ received
	All other exporters	No response received

Table 5: Summary of exporter's status

2.3.7 Governments

The commission contacted the governments of China, Korea, Malaysia and Taiwan at the outset of the inquiry to advise the Commissioner had initiated the inquiry. The commission also invited the Government of China (GOC) to submit a questionnaire regarding information relevant to the countervailing duty notice. The commission did not receive a response from the GOC.

2.4 Submissions received from interested parties

The commission has received 5 submissions during the course of the inquiry which it considered in this SEF.

EPR item number	Interested Party	Date lodged
4	Shin Yang	4 October 2021
10	TKM	31 October 2021
12	TKM	17 December 2021
15	Austube Mills	24 February 2022

PUBLIC RECORD

EPR item number	Interested Party	Date lodged
17	Orrcon	11 March 2022

Table 6: Submissions received prior to publication of the SEF

Chapter 3.3 discusses TKM's submissions concerning the treatment of a particular subset of the goods.

Chapter 9.3.1 addresses Austube Mills's submission on the continuation of measures against exports of the goods from Malaysia.

Chapter 9.3.2 discusses Orrcon's submission regarding the anticipated outcome if the measures expire.

The commission received a further submission from Austube Mills on 11 April 2022³³ and from Orrcon on 13 April 2022.³⁴ Due to the short timeframe before the publication of the SEF, the commission will address these submissions in the Final Report.

³³ EPR 590 No. 26

³⁴ EPR 590 No. 27

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The Commissioner considers that the HSS produced locally is 'like' to the goods subject to the anti-dumping measures.

3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping or subsidisation, the Commissioner assesses whether the goods produced by the Australian industry are 'like' to the imported goods. Section 269T(1) defines like goods as:

...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations including:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

3.3 The goods

3.3.1 Goods subject to measures

The goods subject to the anti-dumping measures and this inquiry are:

certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised or hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21 mm up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3 mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6 mm and air heater tubes to Australian Standard (AS) 2556.

3.3.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:³⁵

Tariff Subheading	Statistical Code	Description
7306		OTHER TUBES, PIPES AND HOLLOW PROFILES (FOR EXAMPLE, OPEN SEAM OR WELDED, RIVETED OR SIMILARLY CLOSED), OF IRON OR STEEL:
7306.30.00		Other, welded, or circular cross-section, of iron or non-alloy steel:
		Exceeding 21 mm but not exceeding 60.3 mm external diameter:
	31	Wall thickness not exceeding 2.5 mm
	32	Wall thickness exceeding 2.5 mm but not exceeding 3.6 mm
	33	Wall thickness exceeding 3.6 mm
		Exceeding 60.3 mm but not exceeding 114.3 mm external diameter:
	34	Wall thickness not exceeding 3.2 mm
	35	Wall thickness exceeding 3.2 mm but not exceeding 4.5 mm
	36	Wall thickness exceeding 4.5 mm
	37	Exceeding 114.3 but not exceeding 165.1 mm external diameter
7306.50.00	45	Other, welded, or circular cross-section, of other alloy steel
7306.6		Other welded, of non-circular cross-section:
7306.61.00		Of square or rectangular cross-section of iron or non-alloy steel:
		Not exceeding 279.4 mm perimeter:
	21	Wall thickness not exceeding 2 mm
	22	Wall thickness exceeding 2 mm
	25	Exceeding 279.4 mm
	90	Other
7306.69.00	10	Of other non-circular cross-section

Table 7: Tariff classification of the goods

On 17 March 2016, the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (then Assistant Minister) altered the dumping duty and countervailing duty notices for the goods exported from China and Malaysia, taking effect after 11 May 2015. This was a result of an anti-circumvention inquiry into the slight modification of goods exported from China, Korea and Malaysia. Consequently, the tariff subheadings 7306.61.00 (90) and 7306.50.00 (45) only apply to

³⁵ These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for reference. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

the following exporters/suppliers: Dalian Steelforce, Tianjin Friend Steel Pipe Co., Ltd (China), Tianjin Ruitong, Roswell S A R Ltd (China) and Alpine Pipe.³⁶

Effective 16 February 2016, the then Assistant Minister exempted the following goods from interim dumping duties, dumping duties, interim countervailing duties and countervailing duties:

- Tubes, square or rectangular, electric resistance welded, complying with Australian/New Zealand Standard 1163:2009 (AS/NZS 1163:2009), Grade C350L0 or C450L0, with a perimeter not less than 1,050 mm and having either:
 - silicon content plus 2.5 times the phosphorus content NOT greater than 0.09%
 - silicon content greater than 0.14% and NOT greater than 0.24%.³⁷

3.3.3 Submissions in relation to the goods subject to measures

In its submission lodged 31 October 2021,³⁸ TKM states that it imports predominantly non-structural grade circular hot dipped galvanised pipe (HDGP) from Youfa International Trade. TKM also submit that exporters from the other subject countries do not export HDGP to Australia and that the goods imported by TKM compete with other imports from non-subject countries such as India, Pakistan and the United Arab Emirates (UAE).

TKM goes on to state that neither of the applicants are able to produce HDGP and therefore imports of the goods by TKM do not compete with Australian manufactured like goods and does not cause material injury to the Australian industry.

A second submission³⁹ from TKM provided a second submission dated 20 October 2021 to the commission on 17 December 2021⁴⁰. In this submission, TKM states:

...the market reality is that AS 1074 circular HDGP does not compete with non-circular AS 1163 PRE-GALVANISED and for both [Austube Mills] and ORRCON to claim that imported HDGP causes lost sales of their production is simple not genuine.

TKM submit that, should the commission find that exports of these goods are dumped, the commission should question whether this dumping has caused material injury to the Australian industry. TKM states that the inclusion of this subset of the goods under consideration is an abuse of the anti-dumping system and an abuse of market power by both applicants.

³⁶ Refer to ADN No. 2016/24 and Anti-Dumping Commission Report No. 291.

³⁷ Refer to ADN No. 2016/116. Refer also to Tariff Concession Order 1609617, available on the Australian Border Force website: www.abf.gov.au

³⁸ EPR 590, No. 010.

³⁹ EPR 590, No. 012.

⁴⁰ TKM originally made a confidential submission to the commission dated 20 October 2021, with a non-confidential version provided on 17 December 2021.

3.3.4 The Commissioner's response to submissions in relation to the goods subject to measures

The anti-dumping measures apply to the goods as described in the goods description and includes any subsets of the goods, unless otherwise exempted. Imports of circular HDGP are not exempted from measures and have therefore been considered by the commission in its assessment of the effect of HSS imports on Australian industry. If an interest party considers that a subset of the goods should be exempt from anti-dumping measures, and accordingly, not included in any injury assessment within an inquiry, it can apply to the Minister for such goods to be exempted from measures pursuant to sections 8(7) and 10(8) of the *Customs Tariff (Anti-Dumping) Act 1975* (Cth).

Further to the above, TKM was provided a copy of the importer questionnaire after the initiation of the inquiry. The commission has not received an importer questionnaire response from TKM. The commission has therefore been unable to substantiate the claims made by TKM in relation to its imports of the goods.

3.4 Model control code

3.4.1 Proposed model control code

The commission undertakes model matching using a model control code (MCC) structure to identify key characteristics that the commission will use to compare the goods exported to Australia and the like goods sold domestically in the country of export.⁴¹

Item	Category	Sub-category	Identifier ⁴²	Sales Data ⁴³	Cost data
1	Prime	Prime	P	Mandatory	Not applicable
		Non-Prime / downgrade	N		
2	Galvanising	Galvanised	G	Mandatory	Mandatory
		None (e.g. mill finish, 'black')	N		
3	Finish	Oiled	O	Mandatory	Mandatory
		Painted	P		
		Anti-rust treatment	R		
		No coating	N		
4	Shape	Circular	C	Mandatory	Mandatory
		Rectangular or square	R		
		Oval	O		
5	Steel grades - nominal minimum yield strength	Steel grade with nominal minimum yield strength less than or equal to 300 MPa	250	Mandatory	Mandatory
		Steel grade with nominal minimum yield strength greater than 300 MPa	450		

⁴¹ Guidance on the commission's approach to model matching is in the Anti-Dumping Commission, *Dumping and Subsidy Manual* (December 2021), available on the commission's website.

⁴² The commission uses the identifier to create an MCC for each product. For example, P-G-N-C-250-P is a prime, galvanised non-coated, circular, 250 grade pipe with a plain end.

⁴³ Mandatory requires the interested party to provide their sales or cost data for the relevant sub-category.

6	Ends	380 MPa		Optional	Optional
		Steel grade with no nominal yield strength	N		
		Plain	P		
		Threaded (at one or both ends)	T		
		Threaded and coupled	C		

Table 8: MCC Structure

3.4.2 Submissions received relating to the MCC structure

The commission received a submission from Shin Yang on 4 October 2021 which proposed a change to the MCC structure and requested clarification on subcategories.

Shin Yang proposed that category 2, Galvanising, should include the subcategories of 'Pre-galvanised', 'Post-galvanised (HDG)' and 'None (mill finish, 'black')', noting that these characteristics have an effect on the price of the goods. Shin Yang also notes that the commission agreed with the approach proposed by Shin Yang in the most recent review into the goods, REV 529.

Shin Yang also suggested that the subcategory in category 3, Anti-rust treatment, creates confusion on the basis that, in general, all types of surface coating provide a degree of anti-corrosion protection.

In its submission dated 29 October 2021, TKM stated that it supports Shin Yang's proposed changes to the MCC structure.

3.4.3 The Commissioner's response to submissions on the MCC structure

The commission has had regard to the submissions on the MCC structure and has amended category 2, Galvanising, to be further subcategorised as 'Pre-galvanised', 'Post-galvanised (HDG)' and 'None (mill finish, 'black')' with respect to exports of the goods by Shin Yang. As no other exporters have proposed amendments to the MCC structure with respect to their exports, the commission did not further amend the MCC structure.

With respect to category 3, the commission accepts Shin Yang's comments regarding the subcategory Anti-rust treatment and agrees that the proposed change to the category provides further clarity. Therefore category 3 was amended as per the table below.

Item	Category	Sub-category	Identifier	Sales Data	Cost data
3	Finish	Oiled	O	Mandatory	Mandatory
		Painted	P		
		Coating other than oil or paint	R		
		No coating	N		

Table 9: Amendment to the MCC structure

3.5 Like goods

This section sets out the commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'. For the purposes of the findings below, the commission has relied upon information obtained from the verification of Austube Mills's and Orrcon's manufacturing facilities and prior findings of the commission.

3.5.1 Physical likeness

The commission finds that the goods exported to Australia from the subject countries are physically similar to the HSS produced by the Australian industry. The commission found that the shapes and profiles (in terms of perimeter, diameter, length and thickness), coatings and finishes of imported HSS have characteristics closely resembling those produced and sold by Australian producers.

In addition, the goods exported from the subject countries and the goods produced by the Australian industry are sold in Australia having regard to the relevant Australian standards for HSS. Each Australian Standard specifies the minimum chemical, mechanical and thermal properties required to achieve the relevant specification, and a test certificate certifies that the relevant Australian Standard has been met or exceeded. Accordingly, HSS from the subject countries or from the Australian industry of the same shapes and profiles will also have similar chemical, mechanical and thermal characteristics if certified to the same Australian Standard.

3.5.2 Commercial likeness

The commission found that the goods exported to Australia from the subject countries are commercially similar to the HSS produced by the Australian industry. The commission found that the goods are sold via the same channels, to the same or similar customers, and compete directly for sales to those customers. In addition, customers have regard to the pricing of the HSS from the subject countries (and other countries) when assessing the relative competitiveness of HSS prices from the Australian industry.

3.5.3 Functional likeness

The commission found that the goods exported to Australia from the subject countries are functionally alike to the HSS produced by the Australian industry. The commission found that domestically produced goods are completely interchangeable with imported goods, as the goods are used for similar end uses.

3.5.4 Production likeness

The commission found that the goods exported to Australia from the subject countries are produced in essentially the same way as the HSS produced by the Australian industry. The commission found that exporters from the subject countries predominantly used the same raw material feedstock (hot rolled coil (HRC)) to produce HSS, and that the key processes (the slitting, rolling, forming, electrical resistance welding, application of

coatings etc.) are essentially identical when the HSS is produced to the same standard and specification.

3.5.5 Like goods assessment

Based on the above, the commission considers that HSS manufactured by the Australian industry have characteristics closely resembling the goods exported to Australia as:

- the primary physical characteristics of the goods and locally produced goods are similar
- the goods and locally produced goods are commercially alike as they are sold to common customers and directly compete in the same market
- the goods and locally produced goods are functionally alike as they have the same end uses
- the manufacturing process for locally produced goods and the goods are similar.

Therefore, the Commissioner is satisfied that the Australian industry for HSS produces like goods to the goods the subject of the application, as defined in section 269T(1).

4 THE AUSTRALIAN INDUSTRY

4.1 Preliminary finding

The Commissioner is satisfied that there is an Australian industry producing like goods, consisting of Austube Mills, Orrcon and Australian Pipe & Tube Pty Ltd (APT), who did not participate in this inquiry.

4.2 Legislative framework

To recommend that the anti-dumping measures be continued, the Commissioner must be satisfied that the like goods are in fact produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the commission to consider the goods as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 Australian industry

The commission undertook virtual verification of the information submitted by Austube Mills and Orrcon in support of their applications.

Austube Mills is wholly owned by Liberty InfraBuild Pty Ltd and produces HSS at two facilities, located in Newcastle (in New South Wales), and Acacia Ridge (in Queensland).

BlueScope Steel Limited wholly owns Orrcon, and produces HSS at its plants located in Salisbury, Queensland and O'Sullivan Beach, South Australia.

Austube Mills and Orrcon both identified APT as a third Australian industry member in their applications. Austube Mills and Orrcon both estimated that APT's production of HSS accounted for less than five per cent of the Australian industry's overall production of HSS during the inquiry period.

The commission understands from publicly available information that APT is a privately owned company that produces HSS at its tube mill in Victoria⁴⁴, but otherwise the commission has been unable to confirm the status of APT as an Australian industry member in the inquiry period, on the basis that APT did not make an application to continue the measures and has not participated to date in the inquiry.

The commission considers it reasonable to conclude that, on the basis of the market intelligence available to Austube Mills and Orrcon, their estimates of APT's production volume are likely to indicate APT's relative scale in the Australian market. Accordingly,

⁴⁴ www.auspipetube.com.au refers.

the commission considers that Austube Mills and Orrcon are responsible for the vast majority of the Australian industry's production of HSS.

4.4 Production process

Due to travel restrictions associated with COVID-19, the commission did not undertake on-site verification visits to Austube Mills or Orrcon. The commission has however previously observed the production of the goods at the Austube Mills and Orrcon facilities. The production process that the commission previously observed is summarised as follows:

- raw material feed (black or pre-galvanised HRC) is purchased from suppliers
- the HRC is loaded into a slitter, uncoiled and then slit to various widths, the edges trimmed, then re-rolled into smaller slit coils ready for use
- the slit coil is then loaded into an accumulator where it is unrolled and fed into a mill for formation into pipe and tube
- the slit coil is formed through a series of rolling stands into a pipe shape. The pipe is welded along the seam, using an electric resistance welding process, into a continuous hollow round tubular shape
- the round tubular pipe is then further formed through rolling stands into square, rectangular and other shapes/cross sections as required
- the product is surface finished by applying various protective coatings such as paint, varnish or oil. Alternatively, if the HSS has been produced from a pre-galvanised feed strip, additional galvanising may be applied to the weld seam
- the HSS is cut to length, bundled and placed in racks ready for storage or despatch to customers.

4.5 Summary

Based on the above, the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia;⁴⁵ and
- there is an Australian industry which produces like goods in Australia, consisting of Austube Mills, Orrcon and APT.⁴⁶

⁴⁵ Section 269T(2) refers.

⁴⁶ Section 269T(4) refers.

5 AUSTRALIAN MARKET

5.1 Preliminary finding

The commission has preliminarily found that, during the inquiry period, the Australian market was supplied by the Australian industry, imports from the countries subject to the anti-dumping measures, and imports from other countries.

5.2 Market size

To estimate the size of the Australian HSS market, the commission has combined the verified sales data from Austube Mills and Orrcon, an estimated sales volume for APT, information from the ABF import database and verified information from importers and exporters.

The figure below shows the commission's estimates of the annual volume of HSS sold in the Australian market since 1 July 2016.

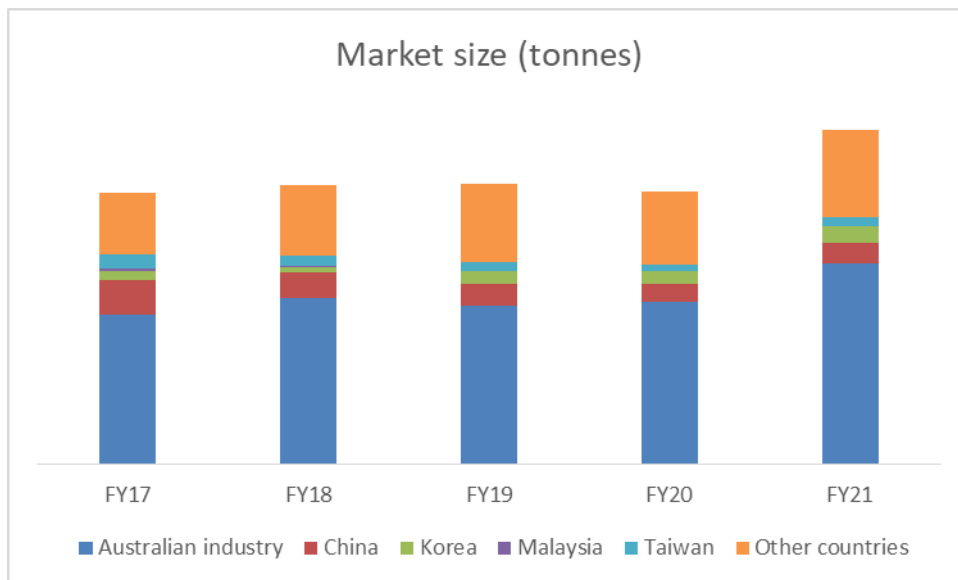


Figure 1: Size of Australian market for HSS

Confidential Attachment 1 contains the commission's Australian market analysis.

5.3 Market structure

5.3.1 End use

HSS is used in a wide range of products and structures, including (but not limited to) sign posts, scaffolding and fencing, vehicle chassis, playground equipment, major structural engineering applications and mining equipment.

5.3.2 Market segmentation

There are four main market segments for HSS in the Australian market:

- Building and Construction (e.g. residential and non-residential construction, building and fencing for agricultural uses)
- Manufacturing (e.g. automotive market, trailers, furniture)
- Engineering (e.g. heat exchangers, heavy structural fabrication, mining)
- Fluids (e.g. bore drilling, industrial plumbing).

5.3.3 Substitutability

There can be some substitutability of HSS with other products (e.g. fibreglass / composite forms of scaffolding), but otherwise HSS is a ubiquitous product in the Australian market.

Local production of HSS is supplemented by imports, with distributors and end-users engaging with producers from a range of locations. HSS is a commodity product, and provided the goods meet the relevant Australian Standard and the grade requirements for the desired end use, there are limited ways in which suppliers can differentiate their offering beyond price and service.

5.3.4 Supply and distribution

The Australian industry sells HSS to distributors, resellers and (less frequently) directly to end-users. Product is despatched to customers from inventory which is held at the Australian manufacturers' steel mills. Once sold, the products are transported via truck or rail to the customer.

Exporters utilise essentially the same channels to market. Figure 2 details this structure.

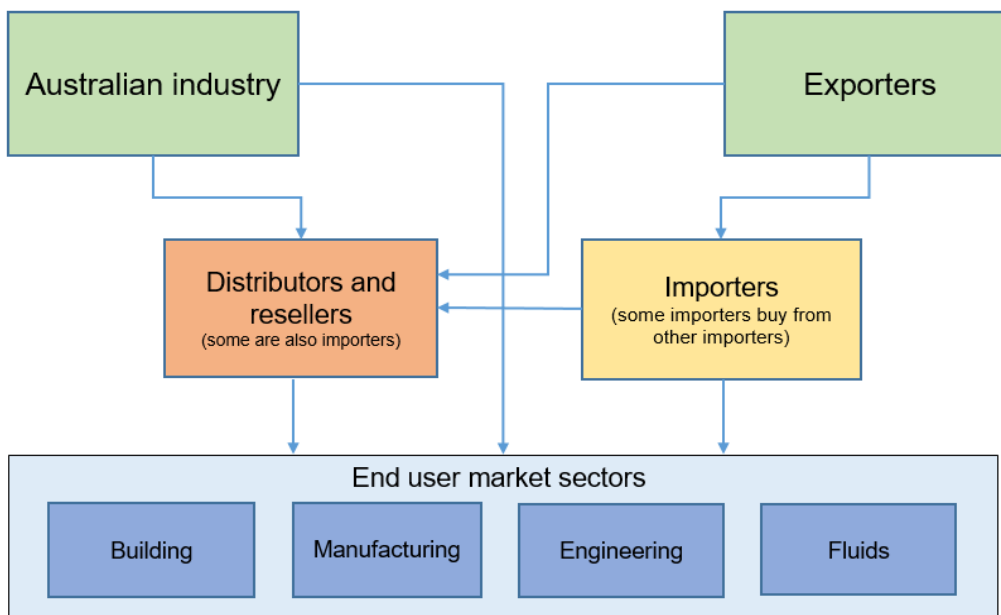


Figure 2: Channels to market

Generally, the Australian industry is able to supply HSS from stock (if available) or from scheduled production. The supply of HSS from stock can occur within a matter of days, whereas the supply from production may be several weeks or months later. In contrast, the lead time from order confirmation through to the receipt of the goods from an exporter is approximately 2 to 3 months.

The commission notes that COVID-19 pandemic impacted international supply into the Australian market during the inquiry period. Austube Mill's application⁴⁷ in particular discussed this impact. The Australian Competition and Consumer Commission (ACCC) released its Container Stevedoring Monitoring Report⁴⁸ in October 2021 which included the following assessment of the impact of the pandemic on supply chains:

Over the past 12 months, the COVID-19 pandemic has derailed the global container freight supply chain (the supply chain). The pandemic-induced lockdowns, border closures and travel restrictions have shifted consumer demand from hospitality services towards manufactured household goods that are typically transported in containers.

At the same time, the pandemic set off a cascade effect, with intermittent and ongoing shocks across the supply chain draining spare shipping and port capacity. The supply chain has been kept in a continuous state of disarray, unable to cope with increased container demand.

This represents a logistical nightmare for the industry. The once efficient major overseas ports have become a cause of severe congestion and delays. The shipping line schedules that worked like clockwork are out of sync. Shipping lines have deployed all their fleet but are unable to fully utilise their capacity as vessels are either trapped for long periods of time in port waiting queues or choose to skip ports altogether.

There is an abundance of empty containers, but they are stuck in the wrong places...

Shipment delays have been mounting as shipping lines are increasingly omitting ports, rolling over cargo and cancelling bookings. Cargo owners around the world are scrambling to book scarce capacity on vessels, bidding up freight rates to unprecedented levels. Freight rates on key global trade routes are around 7 times higher than they were a little over a year ago.

Australian importers and exporters are finding this situation particularly challenging. Many are struggling to get all their cargo on ships and are facing rapidly escalating freight rates. Some are paying significant premiums and

⁴⁷ EPR 590 No. 1

⁴⁸ ACCC Container stevedoring monitoring report 2020-21, October 2021, available at <https://www.accc.gov.au/system/files/Container%20stevedoring%20monitoring%20report%202020-21.pdf>

*surcharges to shipping lines to obtain priority loading, but even this does not guarantee on-time delivery.*⁴⁹

The ACCC also noted that, across the broader economy, ‘recent disruptions in international supply chains have led to a shift in favour of local manufacturing’.⁵⁰

5.3.5 Demand

Demand for HSS is closely aligned to domestic economic performance, and is therefore susceptible to changes in both government and private investment. The degree to which demand is sensitive to these changes can differ between market segments, and the effect of changes in demand are not necessarily experienced consistently in different market segments. There are therefore a diverse range of factors at play that contribute to demand for HSS in the Australian market.

Australian industry members (and importers) have regard to forecasts for demand to manage their supply chains accordingly. The Australian industry advised that the building and construction and manufacturing segments are significant sources of demand for HSS.

The commission notes that the COVID-19 pandemic impacted the Australian market during the inquiry period. As the pandemic emerged in 2020 there was considerable concern that the global, and consequently the Australian, economy would be adversely impacted. The minutes of the monetary policy meeting of the Reserve bank of Australia Board Reserve Bank of Australia held on March 3 2020 noted that *‘it had become increasingly clear that the spread of...COVID-19...beyond China would cause a major disruption to economic activity around the world...(and)....was having a significant effect on the Australian economy’*.⁵¹

Despite these initial concerns, based on the commission’s estimate in chapter 5.2, the Australian market for HSS expanded by more than 20% during the inquiry period. This growth was fuelled by:

- significant direct and indirect government stimulus initiatives intended to support confidence in the residential construction sector during the uncertainty caused by the COVID-19 pandemic, such as the HomeBuilder Grant⁵²
- a change in consumption patterns away from ‘experience’ services such as travel, hospitality and entertainment services toward spending on consumer goods, including home improvement materials.

⁴⁹ Ibid at page ix

⁵⁰ Ibid at page 19

⁵¹ Minutes of the Monetary Policy Meeting of the Reserve Bank Board, 3 March 2020, available at <https://www.rba.gov.au/monetary-policy/rba-board-minutes/2020/2020-03-03.html>

⁵² <https://treasury.gov.au/coronavirus/homebuilder>

Australian Bureau of Statistics (ABS) data for the year ended 30 June 2021⁵³ shows:

- residential houses beginning construction increased 58.9%
- residential units beginning construction increased 52.8%
- spending on alterations and additions to residential buildings increased 21.5%

5.4 Pricing

From its verification of Australian industry, pricing in the Australian market tends to follow a monthly cycle, with the regular development of price lists which have regard to prevailing market conditions. Customers and sellers frequently negotiate on the basis of the price list, having regard to the availability of supply, geographical considerations such as the cost of delivery, customer preferences (the commission notes that some customers show a clear preference for HSS produced in Australia), market intelligence (particularly competitor pricing information) and customer relationships (such as strategic importance to the seller). In some circumstances, there is no price list and the final price is negotiated on a transaction by transaction basis.

The Australian industry has regard to import price offers when setting prices. Its customers have ready access to both locally produced and imported products which are essentially interchangeable, and are therefore in a position to seek the most favourable terms, including price and anticipated delivery timeframes, and frequently negotiate on this basis. Many customers for HSS also maintain multiple sources of supply to enable them to meet their own customers' requirements and to ensure competitive pricing, and to minimise the risk of supply disruptions (e.g. due to maintenance or other unplanned shut down) impacting on their own business.

Because of the Australian industry's ability to supply from stock with shorter delivery timeframes than imported sources, the Australian industry is generally able to command a small price premium. While importers are also able to supply from stock, this is generally in smaller volumes or across a narrower range of products. The urgency with which a customer seeks the supply of HSS therefore also impacts its sensitivity to price in the market.

⁵³ ABS Build Activity for June 2021, available at <https://www.abs.gov.au/statistics/industry/building-and-construction/building-activity-australia/jun-2021#data-download>

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Preliminary finding

The commission preliminarily finds that the Australian industry's economic condition exhibited mixed results during the period of analysis from the 1 July 2016 to 30 June 2021 (the period of analysis).

Following the continuation of measures in 2017, and prior to the inquiry period, Australian industry's economic condition continued to show signs of vulnerability, particularly in terms of its low profits and profitability. However by the conclusion of the inquiry period, Australian industry, when assessed in its totality (Austube Mills and Orrcon combined), had achieved growth in sales volume and market share along with an improvement in profit and profitability. This improvement has not been uniform across Australian industry, with Austube Mills increasing sales and market share while Orrcon experienced a reduction in its market share, reducing capacity utilisation and a stagnation in its selling prices.

The commission has assessed these recent results within the context of changes in supply and demand resulting from the COVID-19 pandemic which impacted Australian industry during the inquiry period. In this context, the commission preliminarily considers that the Australian industry continues to be susceptible to competition from imported goods in the Australian market.

6.2 Approach to analysis

An assessment as to whether the expiration of measures would lead, or would be likely to lead, to a continuation or recurrence of the material injury that the anti-dumping measures are intended to prevent involves a consideration of future outcomes based on an evaluation of the present position.

This chapter considers the present condition of the Australian industry. As discussed in chapter 4, the Australian industry for HSS is comprised of Austube Mills, Orrcon and APT. The commission was not provided with financial data relating to APT, however considers it reasonable to conclude, on the basis of the market intelligence available to Austube Mills and Orrcon, that APT represents a relatively small part of the Australian market. For this reason, the commission considers the economic condition of Austube Mills and Orrcon is a reasonable indicator of the performance of the Australian industry generally.

The observations in this chapter are therefore based on the verified financial information submitted by Austube Mills and Orrcon, and, where relevant import data from the ABF import database as well as verified importer and exporter information.

The commission has used the period of analysis for the purposes of identifying trends in the economic condition of the Australian industry following the continuation of the anti-dumping measures in July 2017. The commission notes that the inquiry period, which is the last year of the period of analysis, matches the 2021 financial year (FY21).

The data and analysis on which the Commission has relied to assess the economic condition of the Australian industry is at **Confidential Attachment 2**.

The commission's consideration of whether it is likely, in the absence of the anti-dumping measures, that material injury caused by dumping will continue or recur is in Chapter 9.

6.3 Volume effects

6.3.1 Sales volume

Figure 3 below illustrates the total size of the Australian market during the period of analysis, segregated into the volume of sales attributable to Australian industry and imports from the subject countries as well as imports from other sources.

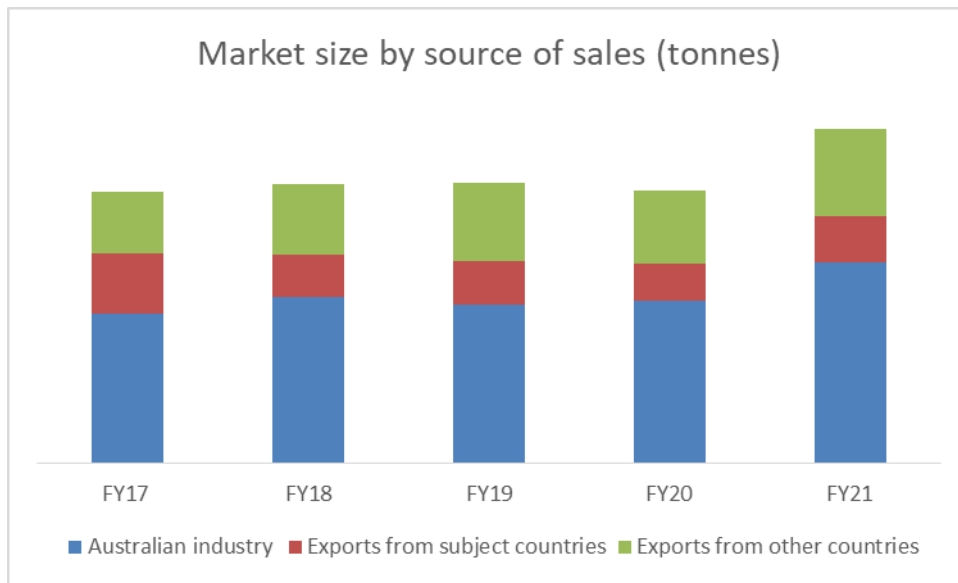


Figure 3: Australian market size and source of sales

Figure 3 shows that:

- In FY18, following the continuation of measures at the conclusion of FY17, Australian industry experienced an improvement in sales volume, and the subject countries experienced a comparable reduction
- Australian industry's sales volumes reduced in FY19, with exports from the subject countries and other countries both increasing
- Australian industry's sales volume recovered in FY20, in a contracting market, with exports subject to measures and other exports both diminishing
- the Australian market grew by more than 20% during the inquiry period, with all participants achieving a higher volume of sales.

6.3.2 Market share

The figure below shows the estimated changes in the Australian market share between Australian industry, imported HSS subject to measures, and imported HSS not subject to measures.

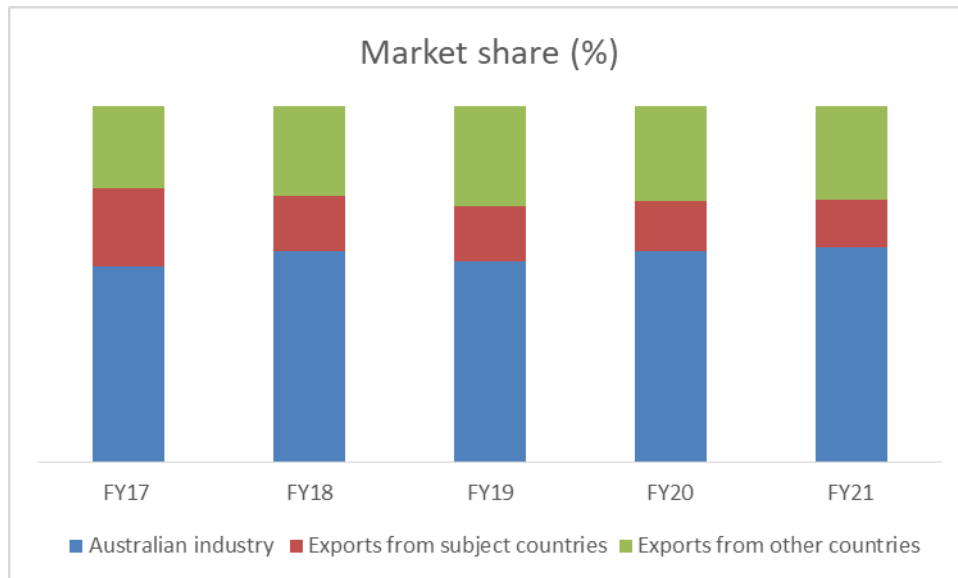


Figure 4: Australian market share

Figure 4 illustrates that:

- Australian industry's share of the market improved in FY18 following the continuation of measures, with exports from subject countries reducing
- this increase in market share was eroded in FY19 as exports from other countries captured increasing market share at the expense of both Australian industry and exports from the subject countries
- Australian industry captured additional market share in FY21, with both exports subject to measures, and other exports experiencing a reduction in market share.

6.3.3 Conclusion – volume effects

The commission considers that Australian industry has experienced an increase in sales volume as well as market share during the period of analysis.

6.4 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

The commission has separately considered the relationship between selling prices and costs to make and sell (CTMS) for Austube Mills and Orrcon.

6.4.1 Austube Mills

Figure 5 below charts Austube Mills's unit selling price and unit CTMS across the period of analysis.

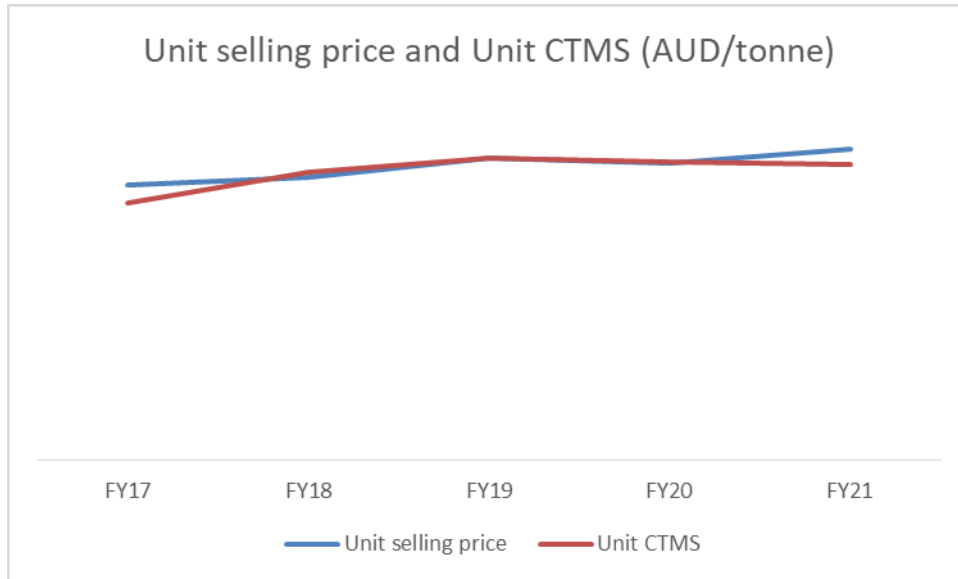


Figure 5: Austube Mills Unit selling price and unit CTMS (period of analysis)

The commission also analysed in Figure 6 below the relationship between Orrcon's unit selling price and CTMS on a quarterly basis during the inquiry period.

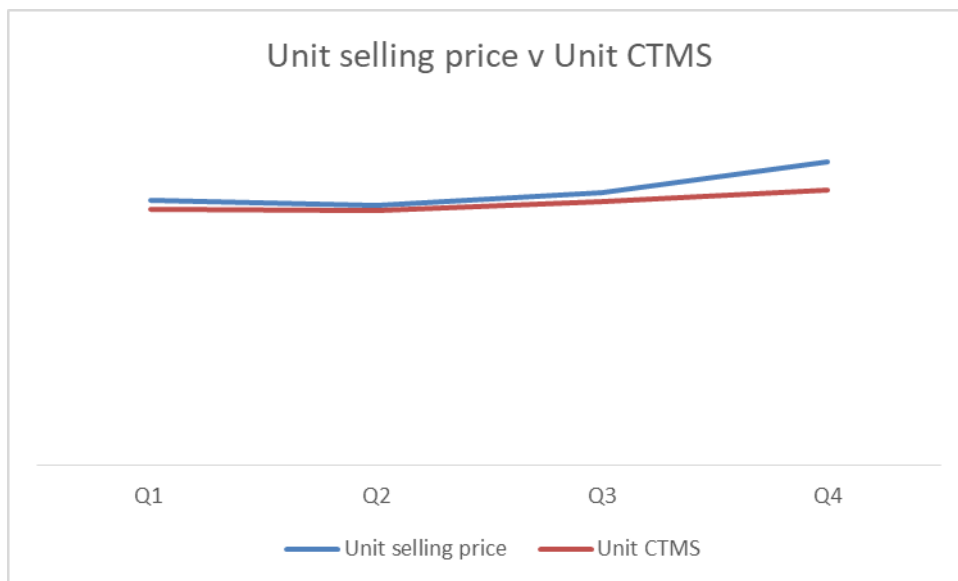


Figure 6: Austube Mills Unit selling price and unit CTMS (inquiry period)

Figure 5 and Figure 6 indicate that:

- unit selling prices have generally trended upward across the period of analysis, with a minor correction in FY20
- unit CTMS trended upward in the period FY17 to FY19, however has been in decline since
- Austube Mills maintained a positive margin between unit selling prices and unit CTMS at the commencement of the period and

- the margin between unit selling prices and unit CTM eroded during the period FY18 to FY20, however during FY21 Austube Mills was able to increase unit selling prices at a greater rate than the increase in its CTMS, thus returning to a positive margin.

6.4.2 Orrcon

The figure below charts Orrcon's unit selling price and unit CTMS across the period of analysis.

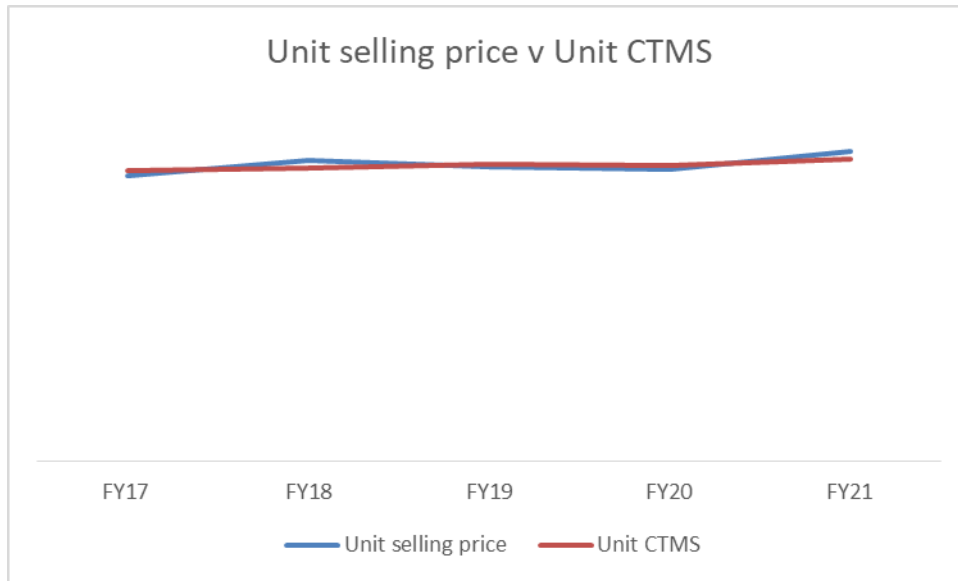


Figure 7: Orrcon Unit selling price and unit CTMS (period of analysis)

The commission also analysed in the figure below the relationship between Orrcon's unit selling price and CTMS on a quarterly basis during the inquiry period.

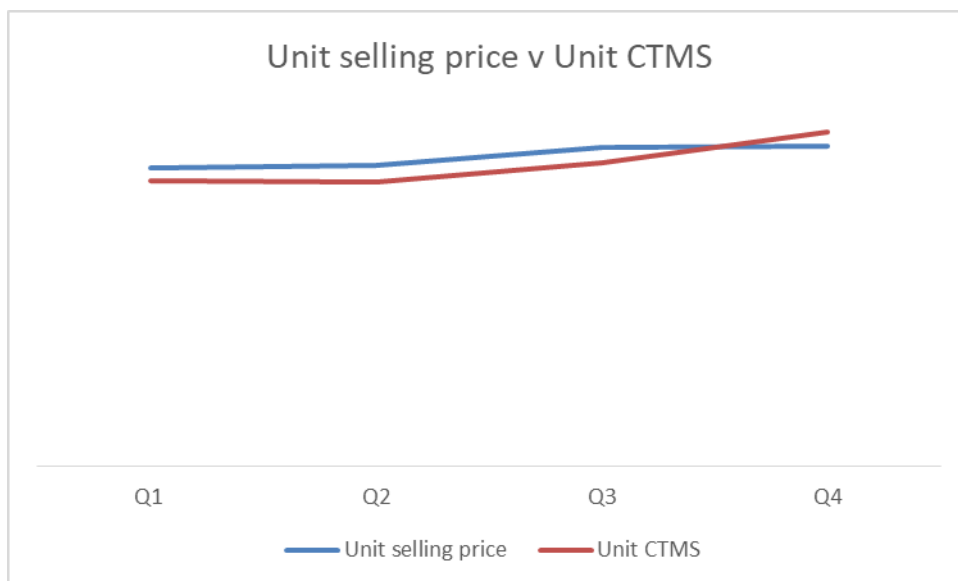


Figure 8: Orrcon Unit selling price and unit CTMS (inquiry period)

Figure 7 and Figure 8 indicate that:

- unit selling prices and unit CTMS have been closely correlated during the period of analysis, with an overall upward trend for both variables
- FY21 shows an improvement in the margin between unit selling prices and unit CTMS relative to FY20
- while Orrcon has experienced both rising unit selling prices and unit CTMS during the inquiry period, by Q4 it has not been able to recover the entirety of the additional CTMS in its selling price.

6.4.3 Conclusion – price effects

The commission notes that unit selling prices and CTMS have both trended upward during the period of analysis, however the margins between unit selling prices and CTMS were at all times tight.

During the inquiry period Austube Mills was able to increase unit selling prices at a greater rate than the increase in CTMS. Orrcon, however, experienced stagnating unit selling prices, such that by the conclusion of the period unit CTMS had again overtaken unit selling prices.

The commission considers that Australian industry has not experienced price depression during the period of analysis, however, it appears that Orrcon has experienced price suppression during the inquiry period.

6.5 Profit effects

6.5.1 Austube Mills profit and profitability

Figure 9 below charts Austube Mills's total profit and profitability as a percentage of revenue across the period of analysis:

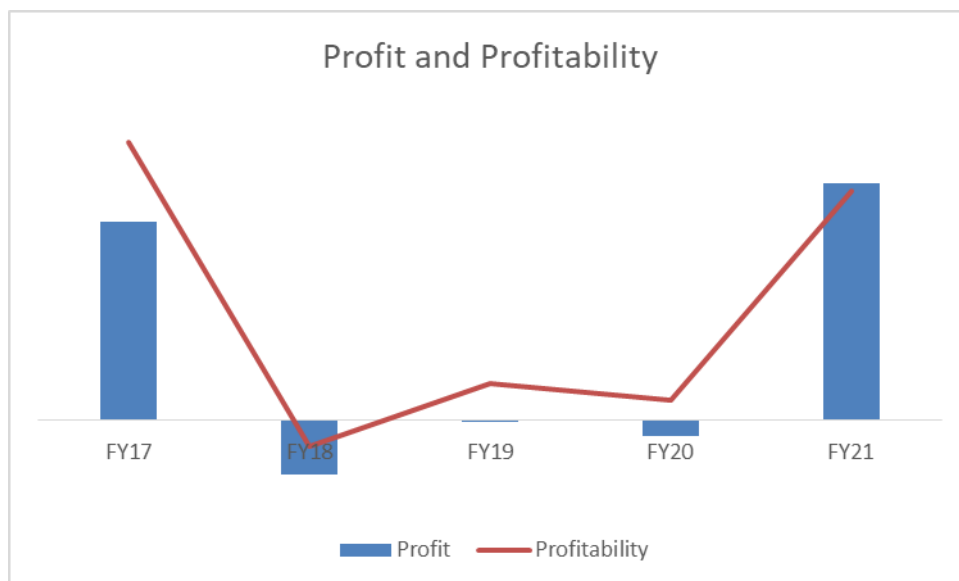


Figure 9: Austube Mills Profit and profitability (period of analysis)

The commission also analysed in the figure below Austube Mills's total profit and profitability as a percentage of revenue across on a quarterly basis during the inquiry period.

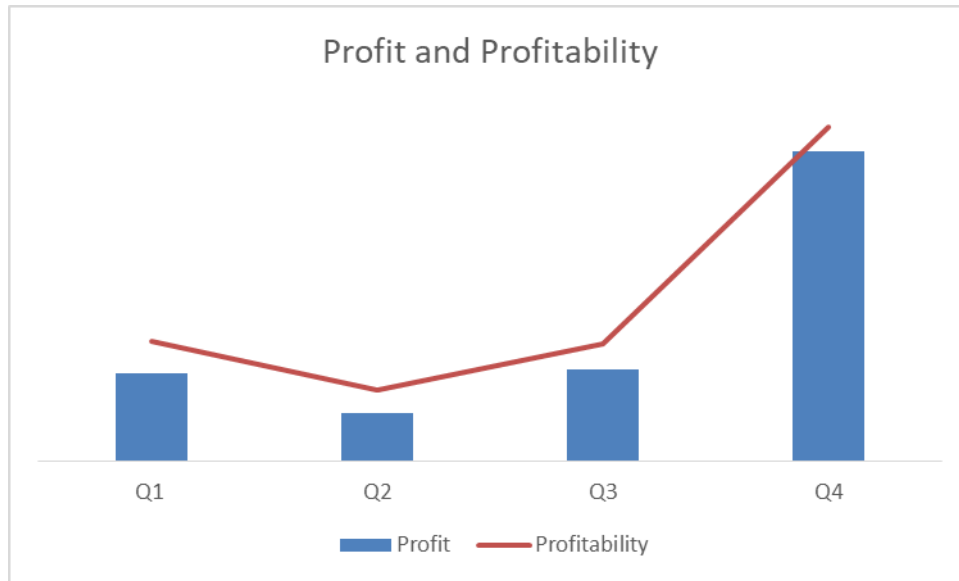


Figure 10: Austube Mills profit and profitability (inquiry period)

Figure 9 and Figure 10 indicate that Austube Mills suffered a deterioration in profit and profitability from FY17 to FY20, before experiencing a recovery during the inquiry period. This trend is consistent with the increased sales volume and margin between selling prices and CTMS described above for FY21.

The commission does not consider that Austube Mills has experienced a deterioration in its economic performance in the form of reduced profit and profitability during the inquiry period.

6.5.2 Orrcon profit and profitability

Figure 11 below charts Orrcon's total profit and profitability as a percentage of revenue across the period of analysis:

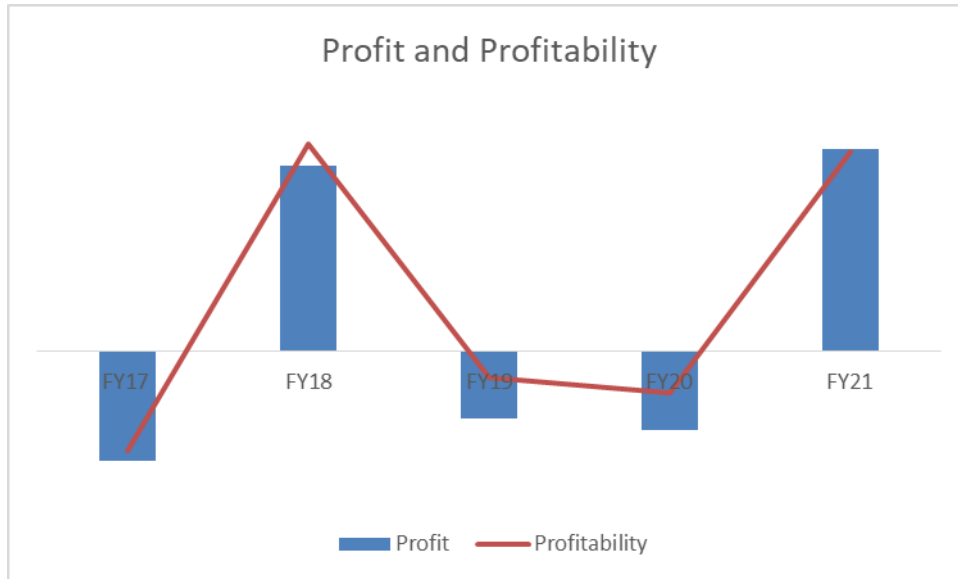


Figure 11: Orrcon Profit and profitability (period of analysis)

The commission also analysed in the figure below Orrcon's total profit and profitability as a percentage of revenue across on a quarterly basis during the inquiry period.

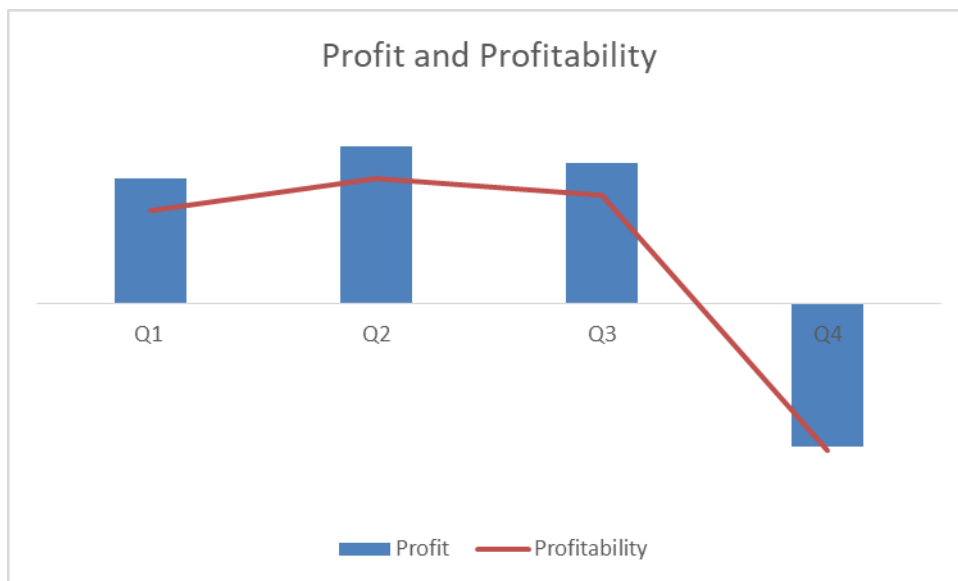


Figure 12: Orrcon profit and profitability (inquiry period)

Figure 11 and Figure 12 indicate that:

- Orrcon suffered a deterioration in profit and profitability from FY18 to FY20, before experiencing a recovery in FY21; however
- the recovery in FY21 peaked in the second quarter (Q2) after which time Orrcon has experienced reducing profit and profitability which culminated in losses in Q4. This trend is consistent with the emergence of price suppression detailed above.

The commission considers that despite an improvement in profit and profitability during the period of analysis, Orrcon has experienced a deterioration in its economic performance in the form of reduced profit and profitability during the inquiry period.

6.5.3 Conclusion – profit effects

Based on the available information, the commission consider that despite an improvement in profit and profitability during the inquiry period, Orrcon has experienced a deterioration in its economic performance in the form of reduced profit and profitability during the inquiry period.

6.6 Other economic factors

The commission analysed data relating to other economic factors provided by Austube Mills and Orrcon.

6.6.1 Austube Mills

The commission observed the following trends in the data supplied by Austube Mills for the period of analysis:

- assets employed in the production of like goods declined until FY19, after which time there has been significant improvement
- capital investment increased from FY18 however declined in FY21
- revenue was stable during the period FY17 to FY20, however increased in FY21 due to growth in sales volumes and selling prices
- capacity utilisation was in decline from FY17 to FY20, however improved in FY2021 as production increased to meet increased demand
- closing stocks peaked in FY19 before reducing in FY20. FY21 again saw an increase in closing stocks
- employment has remained reasonably steady, with a slight increase during the inquiry period
- productivity has increased due to production increasing with only minor increases to employment
- return on investment was in decline from FY17 to FY20, however improved in FY21 as sales volume and selling prices increased

6.6.2 Orrcon

The commission observed the following trends in the data supplied by Orrcon for the period from calendar year 2018⁵⁴:

- assets employed in the production of like goods increased, however declined during the inquiry period
- capital investment has declined year on year

⁵⁴ Orrcon's data on its other economic factors is provided on a calendar year basis as compared to a financial year basis for other economic metrics.

- revenue was in decline however increased during the inquiry period due to growth in sales volumes and selling prices
- capacity utilisation has varied from year to year, however declined during the inquiry period
- closing stocks were building until the inquiry period, however reduced during the inquiry period as stocks were drawn on to supplement production to meet growing demand
- employment was in decline but increased during the inquiry period
- productivity was improving leading in to the inquiry period, driven by a reduction in employment, however declined during the inquiry period.

6.7 Conclusion

The above analysis indicates that Australian industry has generally experienced an improvement in its economic performance since the continuation of measures in July 2017. By the conclusion of the inquiry period, Australian industry, when assessed in its totality, had achieved growth in sales volume and market share, as well as year on year growth in selling prices. The combination of increased sales volumes at higher selling prices resulted in an improvement in profit and profitability.

The commission considers that these improvements were attributable to the momentum Australian industry gained during the inquiry period itself. As detailed in Chapter 5, supply and demand factors resulting from the COVID-19 pandemic impacted the Australian market during the inquiry period, and the economic condition of the Australian industry must be assessed within that context.

In terms of supply, various factors related to the pandemic led to increased levels of port congestion and schedule disruption which in turn resulted in longer shipping times and significantly increased costs of shipping for exporters.

In terms of demand, the Australian market for HSS expanded dramatically within the inquiry period, driven by government stimulus programs and loosening monetary policy designed to dampen any contractionary effects of the pandemic and increased spending on housing construction and renovation during lockdown where other avenues of spending had been curtailed.

These anomalous supply and demand conditions proved advantageous to Australian industry which was able to harness excess production capacity to meet growing demand at a time when competitors' international supply channels were disrupted. Australian industry captured approximately two thirds of the additional volume of sales in the market during the inquiry period, in excess of its prevailing market share in the years prior.

The commission notes that in the years following the continuation of measures, and prior to the inquiry period, Australian industry continued to show signs of vulnerability. This is most evident in terms of Australian industry's profit and profitability. Despite improving market share in the period FY18 to FY20, Australian industry nevertheless operated at a marginal level of profit and profitability, indicating the ongoing challenge of maintaining prices at levels that would recoup the costs of production and selling.

In addition, when the commission considered separately Austube Mills and Orrcon, the economic condition of Australian industry is more nuanced. During the inquiry period Austube Mills was able to better capitalise on the favourable trading conditions discussed above, increasing sales and market share, leveraged by an improving margin between its selling prices and its CTMS. Orrcon, on the other hand, experienced a reduction in its market share, reducing capacity utilisation and a stagnation in its selling prices such that by the end of the inquiry period it had again succumbed to a negative margin between its selling prices and CTMS.

For these reasons the commission considers that the improvements in the economic condition of the Australian industry during the inquiry period need to be considered within the context of the favourable trading conditions resulting from the COVID-19 pandemic. A broader consideration of the period of analysis, and a separate assessment of the economic performance of each of Austube Mills and Orrcon, indicates that the Australian industry continues to be susceptible to competition from imported goods in the Australian market.

Chapter 9 addresses whether the expiration of measures would lead, or would be likely to lead, to a continuation or recurrence of the material injury that the anti-dumping measures are intended to prevent.

7 DUMPING IN THE INQUIRY PERIOD

7.1 Preliminary finding

For the purpose of assessing whether dumping is likely to continue or recur, the Commissioner has examined whether exports in the inquiry period were dumped. The Commissioner also used this information to determine whether the variable factors in relation to exporters have changed.

The commission has ascertained dumping margins as summarised in Table 10.

Country	Exporter	Dumping Margin
China	Dalian Steelforce	9.4%
	Residual exporters (Hengshui Jinghua and Tianjin Ruitong)	9.4%
	All other exporters	30.4%
Korea	Hi-Steel	-9.3%
	All other exporters	13.8%
Malaysia	All other exporters	20.8%
Taiwan	Shin Yang	-0.7%
	Ta Fong	-1.9%
	Residual exporters (Tension Steel)	-0.8%
	All other exporters	23.5%

Table 10: Summary of preliminary dumping margins

The margins set out in Table 10 do not account for the possible application of a non-injurious price or 'double-count' adjustment. Chapters 10 and 11.5 discuss these issues.

7.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively. The commission applied the method in section 269TACB(2)(a) to determine whether dumping has occurred and the levels of dumping by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

Further details of the export price and normal value calculations for each exporter are set out in the following chapters.

7.2.1 Export price

Export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods are 'arms length' transactions under section 269TAA.

Section 269TAB(1)(a) provides that the export price of any goods exported to Australia is the price paid (or payable) for the goods by the importer where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in 'arms length' transactions.

Section 269TAB(1)(b) provides that the export price of goods is the price that the importer sold the goods, less the prescribed deductions, where:

- goods have been exported to Australia otherwise than by the importer, and
- were purchased by the importer from the exporter, but not at 'arms length', and
- the importer subsequently sells the goods in the condition they were imported to a party not associated with the importer.

Section 269TAB(1)(c) provides that in all other cases, the export price is a price determined by the Minister having regard to all the circumstances of the exportation.

7.2.2 Normal value

The normal value is determined in accordance with section 269TAC.

Cooperative exporters

Section 269TAC(1) provides that:

...[T]he normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade [(OCOT)] for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

Low volume of domestic sales

Section 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under section 269TAC(1). Relevant sales are sales of like goods sold for home consumption that are 'arms length' transactions and sold in the OCOT.

Domestic sales of like goods are taken to be in a low volume where the total volume of like goods is less than 5% of the total volume of the goods under consideration that are

exported to Australia (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison). As per the Anti-Dumping Commission Dumping and Subsidy Manual (the Manual)⁵⁵, where the total volume of relevant sales is 5% or greater than the total volume of the goods under consideration, and where comparable models exist, the commission also considers the volume of relevant domestic sales of like goods for each model (or MCC).

Particular market situation

Section 269TAC(2)(a)(ii) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where the Minister is satisfied that because of a situation in the market of the country of export, such sales in that market are not suitable for use in determining a price under section 269TAC(1). This is referred to in this report as a 'particular market situation'.

The commission found in REV 529 that a particular market situation existed in respect of the Chinese domestic market for the goods. The commission therefore examined whether a particular market situation persisted and determined that:

- a particular market situation existed in respect of the domestic market for like goods in China for the inquiry period
- because of that particular market situation, sales of like goods in the Chinese domestic market are not suitable for determining a price under section 269TAC(1). This is because the price of such sales does not permit a proper comparison with the export price in determining the dumping margin.

Non-confidential APPENDIX A contains the commission's particular market situation analysis for China.

Non-confidential APPENDIX B contains the commission's proper comparison analysis for China.

The commission did not undertake the same examination for the Korean, Malaysian and Taiwanese markets because the commission has not found previously a particular market situation in these markets. The applicants made no allegation that this had changed.

Uncooperative exporters

Section 269TACAB(1)(e) sets out that, if the normal value of goods for an uncooperative exporter is to be worked out in relation to an inquiry, the normal value is to be worked out under section 269TAC(6), which provides that the normal value is determined by having regard to all relevant information.

⁵⁵ *Anti-Dumping Commission Dumping and Subsidy Manual – December 2021*

7.2.3 Dumping margin

For all dumping margins calculated for the purposes of this inquiry, the commission compared export prices over the whole of the inquiry period with the corresponding normal values.

7.3 Exporters

7.3.1 Cooperative and residual exporters

Section 269T(1) provides that, in relation to the continuation of a dumping duty notice, an exporter who is not an 'uncooperative exporter' and whose exports are selected to be examined as part of the inquiry is a 'cooperative exporter'. An exporter who is not an 'uncooperative exporter' and whose exports the commission does not examine as part of the inquiry is a 'residual exporter'.

Section 269TACAA(1) provides that where there is an inquiry into the continuation of a dumping duty notice or countervailing duty notice and the number of exporters from a particular country of export in relation to the inquiry is so large that it is not practicable to examine the exports of all of those exporters, the inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters who either constitute a statistically valid sample of those exporters or are responsible for the largest volume of exports to Australia that can reasonably be examined.

The following exporters were cooperative exporters:

- Dalian Steelforce (China)
- HiSteel (Korea)
- Shin Yang (Taiwan)
- Ta Fong (Taiwan)

The commission considers that the cooperative exporters are responsible for the largest volume of exports that the commission can reasonably examine in this inquiry.

The commission considered that it was not practicable to examine the exports of the following exporters, who are residual exporters:

- Hengshui Jinghua (China)
- Tianjin Ruitong (China)
- Tension Steel (Taiwan)

There were no cooperative or residual exporters from Malaysia.

7.3.2 Other entities

The Manual provides that the Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that:

- gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia, or
- owns, or previously owned, the goods, but need not be the owner at the time the goods were shipped.

The Manual notes that it is common for traders or other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation (both land and ocean), arranging port services, arranging loading, conducting price negotiations, arranging contracts with producer and customer alike, conveying the customer's specifications to the producer including quality, marking, and packing requirements, and so forth.

Typically, the manufacturer, as a principal who knowingly sent the goods for export to any destination will be the exporter.

The commission has determined that, consistent with the Manual, a number of REQs received were from entities who were not exporters of the goods during the inquiry period, but are instead acting as a trader or an intermediary for the actual exporter, who may or may not have submitted an REQ to the inquiry. These entities are discussed below.

Huaxing

The commission considers that Huaxing is a trading company, who purchases the goods on the domestic Chinese market from related manufacturer Tianjin Ruitong for supply to customers in Australia. Huaxing does not manufacture the goods, has no warehousing facilities and it does not play any role in the sale of like goods on the domestic market.

Huaxing provided to the commission details of its transactions with customers in Australia. The commission has used this data in its determination of countervailable subsidies applicable to Tianjin Ruitong. Chapter 8.4.3 discusses this issue. The commission has not used this data in the calculation of Tianjin Ruitong's dumping margin, as the commission considers Tianjin Ruitong a residual exporter in relation to the dumping duty notice. Chapter 7.4.2 discusses this issue.

Yantai Aoxin

The commission did not consider Yantai Aoxin to be an exporter of the goods in relation to the inquiry because it does not manufacture the goods, did not export the goods to Australia during the inquiry period and there is no evidence that Yantai Aoxin has exported the goods to Australia prior to the inquiry period.

Youfa International Trade

REV 529 determined variable factors for the 'Tianjin Youfa Group of companies', set out in ADN No. 2021/11. REV 529 describes the Tianjin Youfa Group as follows:

Tianjin Youfa Group (Tianjin Youfa) comprises a group of companies that are involved in the manufacture and sale of HSS. Its REQ included information concerning the activities of the specific entities in the group involved in producing and/or selling HSS for both the Australian and domestic markets in this review period.

- *Manufacturing and selling entities of finished black and galvanised HSS – Tianjin Youfa Steel Pipe Group Co., Ltd. No.1 Branch Company (Branch No. 1), Tianjin Youfa Steel Pipe Group Co., Ltd. No.2 Branch Company (Branch No. 2), Tangshan Youfa Steel Pipe Manufacture Co., Ltd. (Tangshan Youfa) and Tangshan Zhengyuan Steel Pipe Co., Ltd. (Tangshan Zhenguan). These entities make domestic sales only, to both unrelated and related customers. Sales to related customers can result in on-selling to other related entities in the group (for end use or further on-selling to external customers) as well as further processing, such as galvanising black pipe.*
- *Finishing entity – Tianjin Youfa Hongtuo Steel Pipe Manufacture Co., Ltd. (Hongtuo) does not manufacture HSS, but does perform finishing processes such as threading, packaging and incurs production costs and selling expenses. Hongtuo also sold a small quantity of HSS domestically in the review period, but primarily acted as an intermediary in the production and sale of exported HSS between the manufacturing entities and Tianjin Youfa International Trade Co., Ltd (Youfa International).*
- *Youfa International is the export sales entity in the group, although it made a small number of sales domestically in the review period. Youfa International is the entity responsible for liaising with TKM (its Australian importer customer) on price, quantity and order fulfilment.⁵⁶*

REV 529 goes on to conclude:

As a result of its examination of the role of each of the entities in Tianjin Youfa, in relation to exports of HSS to Australia in the review period, the Commission considers that whilst SEF 529 stated that Youfa International was the principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia, Youfa International appears to provide export-oriented services on behalf of the Tianjin Youfa Group. Therefore, the Commission has reconsidered the identity of the exporter and considers that Tianjin Youfa is the exporter.⁵⁷

ADN No. 2021/11 lists the ‘Tianjin Youfa Group of companies’ as subject to anti-dumping measures in relation to the goods. This is a reference to the following 6 companies making up the group, each of which formerly played a role jointly in the export of goods currently subject to the measures⁵⁸:

- Tianjin Youfa Steel Pipe Group Co., Ltd. No.1 Branch Company
- Tianjin Youfa Steel Pipe Group Co., Ltd. No.2 Branch Company
- Tangshan Youfa Steel Pipe Manufacture Co., Ltd.
- Tangshan Zhengyuan Steel Pipe Co., Ltd.
- Hongtuo

⁵⁶ REP 529, chapter 5.7

⁵⁷ Ibid

⁵⁸ ADN No. 2021/11 refers to REP 529 which provides the details of the Tianjin Youfa Group

- Youfa International Trade (referred to as Youfa International in REV 529).

Out of the 6 entities above, only Youfa International Trade provided an REQ to this inquiry. In its REQ, Youfa International Trade described its role as a trading company, exporting goods manufactured by Hongtuo. Youfa International Trade also noted that its ownership structure has changed since REV 529.⁵⁹ The commission queried with Youfa International Trade during the inquiry, who advised the commission that before the inquiry period it became a private independent company, related to Hongtuo, but it is no longer in a corporate group with the other 4 entities of the former Tianjin Youfa Group. Youfa International Trade confirmed that Hongtuo still purchases some black pipe from these other companies, but it also purchases black pipe from other unrelated companies that never formed part of the Tianjin Youfa Group.

In its examination of its REQ and from further discussions with Youfa International Trade, the commission has determined the following:

- Youfa International Trade sells the goods in both the domestic and international market.
- Youfa International Trade contacts customers, negotiates price, prepares documentation, sources the goods and arranges delivery.
- Hongtuo supplies the goods to Youfa International Trade, as well as other unrelated domestic companies. In instances where Hongtuo is not able to fulfil customer orders, Youfa International Trade will purchase goods from other unrelated manufacturers.
- Hongtuo purchases black pipes or galvanized pipes according to customer orders, and if necessary, outsources galvanization and further processing of the pipes. Hongtuo can perform cutting, packing, oiling or painting of pipes before sale. Hongtuo's costs includes the purchase price for black pipes, galvanization, processing fees as well as its own material, direct labour and manufacturing overheads for its own processing. Hongtuo physically stocked finished products in its factory and waits for a freight agency appointed by Youfa International Trade before delivery to Australian customers.
- Most of Hongtuo's CTM is black pipe, zinc and outsourcing fees, i.e. manufacturing costs not incurred directly by Hongtuo. Hongtuo's CTM includes some paint, auxiliary costs, direct labour and overheads.
- Youfa International Trade warehouses some purchased pipes and finished products.

Based on the information above, the commission considers that Youfa International Trade is not an exporter of the goods, but a trading entity, largely selling goods supplied by, but not manufactured by, Hongtuo. The services provided by Youfa International Trade are typical of those noted in the Manual as performed by traders. This is consistent with the findings of REV 529. However, it is distinguished from the conclusion in that review, which

⁵⁹ Youfa International Trade REQ, EPR 590 No. 18

found that Youfa International Trade was an exporter because of its integrated role within the Tianjin Youfa Group of companies. The change in ownership of Youfa International Trade since REV 529 means it is no longer related to the other former Tianjin Youfa Group companies and no longer provides export-oriented services on their behalf – it does so as an independent entity or on behalf of Hongtuo, who is also no longer related to the former Tianjin Youfa Group.

The commission also considers that Hongtuo is not an exporter of the goods, but an intermediate finishing entity. It does not manufacture the goods, but purchases pipe in a mostly finished form and undertakes or outsources only minor processing before supplying the goods to Youfa International Trade.

The commission considers that the exporters of goods exported to Australia through Youfa International Trade and Hongtuo are the manufacturers of the goods who supply Youfa International Trade and Hongtuo. Manufacturers of the goods would typically know that these goods are destined for an export market as the goods manufacturers must make the goods to the relevant standard, in this case, an Australian standard. While the commission has been able to identify these manufacturers, it cannot verify their role in the export of the goods (such as their cost of production or their export and domestic sales data) because they have not provided sufficient information to verify their role in the export of the goods.

Accordingly, the Commissioner has not ascertained variable factors for Youfa International Trade or Hongtuo because they are not exporters of the goods⁶⁰.

The commission notes that it identified Youfa International Trade at the outset of the inquiry as a selected exporter. The commission based this decision on its understanding of the status of Youfa International Trade following REV 529. The determination that Youfa International Trade is not a selected exporter means that the Commissioner has based the variable factors for Chinese residual exporters solely on Dalian Steelforce data.

7.3.3 Uncooperative exporters

Section 269T(1) provides that an exporter is an ‘uncooperative exporter’ in relation to an inquiry where the Commissioner is satisfied that:

- the exporter did not give the Commissioner information that the Commissioner considered to be relevant to the inquiry within a period the Commissioner considered to be reasonable or
- the exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction) states at section 8 that the Commissioner must determine an

⁶⁰ Exporters may apply to the commission for a review of its variable factors any time after 12 March 2022 (being 12 months after the Minister’s decision on REV 529).

exporter to be an uncooperative exporter, on the basis that the exporter provided no relevant information in a reasonable period, if that exporter:

- fails, within the legislated period, to:
 - provide a response⁶¹ or
 - request a longer period to provide a response or
- provides a response within the legislated period that the Commissioner considers did not provide information relevant to the case.

The Commissioner considered the Customs Direction and section 269T and determined that any exporter, which did any of the following, is an uncooperative exporter for the purposes of this inquiry:

- failed to provide a response or request a longer period to provide a response within the time specified in ADN No. 2021/122, being 29 October 2021⁶²
- provided a REQ within the legislated period that did not provide information relevant to the case.⁶³

On this basis, the Commissioner considers that the following exporters are uncooperative for this inquiry:

- all exporters from China, except for Dalian Steelforce, Hengshui Jinghua and Tianjin Ruitong. This includes Huludao, who did not provide an REQ to this inquiry, and exporters who are former members of the Tianjin Youfa Group of companies
- all exporters from Korea, except for HiSteel and Kukje (who is exempt from the measures)
- all exporters from Malaysia
- all exporters from Taiwan, except for Sing Yang, Ta Fong and Tension Steel.

7.4 Dumping assessment – China

7.4.1 Dalian Steelforce

Verification

The commission conducted a virtual verification Dalian Steelforce's REQ.

The commission is satisfied that Dalian is the producer of the goods and like goods. The commission is further satisfied that the information provided by Dalian is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

⁶¹ Defined in the Customs Direction as any document or thing provided to the Commissioner in relation to any case, including submissions, information or answers to the questions in questionnaires.

⁶² This is the relevant legislated period.

⁶³ Requests for further information are contained in deficiency letters.

A report covering the verification findings is available on the public record.⁶⁴

Export price

The commission found that Dalian Steelforce exported the goods to Australia via 2 channels:

- directly to an Australian importer Austube Mills, and
- indirectly to Steelforce Australia Pty Ltd, through a related trading entity, Austeel Trading.

The commission considers Dalian Steelforce to be the exporter of the goods as it is:

- the manufacturer of the goods
- named on the commercial invoice as the supplier
- named as consignor on the bill of lading
- arranges and pays for the inland transport to the port of export, and
- arranges and pays for the port handling charges at the port of export.

The commission is satisfied that for all Australian export sales during the period that Dalian Steelforce was the exporter of the goods.

In respect of Dalian Steelforce's export sales of the goods to its related customers in Australia during the period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price, or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁶⁵

However, the commission found evidence a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller appeared to influence the price because:

- Dalian Steelforce, Steelforce Australia, Austeel Trading and Austube Mills are ultimately wholly owned by InfraBuild
- Dalian Steelforce was a supplier of the goods to Steelforce Australia, via Austeel Trading and to Austube Mills.
- Prices between Dalian Steelforce, Steelforce Australia, Austeel Trading and Austube Mills are determined according to an internal pricing guideline.

⁶⁴ EPR 590 No. 26

⁶⁵ See section 269TAA(1)(c).

The commission therefore considers that export sales to Australia made by Dalian Steelforce to its related customers during the period were not be 'arms length' transactions, pursuant to section 269TAA(1)(b).

In respect of Dalian Steelforce's Australian sales of the goods to Austube Mills, the commission considers that the export price cannot be determined under section 269TAB(1)(a) because Austube Mills's purchase of the goods was not in 'arms length' transactions. As the goods were subsequently sold by the importer (Austube Mills) in the condition that they were imported, the commission has calculated the export price under section 269TAB(1)(b), being the price at which the goods were so sold by Austube Mills, less the prescribed deductions outlined in section 269TAB(2).

In respect of Dalian Steelforce's Australian sales of the goods made via Austeel Trading to Steelforce Australia, the commission considers that the importer (Steelforce Australia) has not purchased the goods from the exporter (Dalian Steelforce), and therefore, the export price cannot be determined under sections 269TAB(1)(a) or 269TAB(1)(b). The commission has calculated the export price under section 269TAB(1)(c) having regard to all the circumstances of the exportation.

As the commission considers that Steelforce Australia's purchases of the goods from Austeel Trading, and Austeel Trading's purchase of the goods from Dalian Steelforce were not 'arms length' transactions, it is not appropriate to base the export price on the non-arms length purchase price. As the goods were subsequently sold by the importer (Steelforce Australia) in the condition that they were imported, the commission has calculated the export price using a deductive export price method, being the price at which Steelforce Australia sold the goods, less relevant deductions.

Confidential Attachments 3 and 4 contains the commission's preliminary export price calculations for Dalian Steelforce.

Normal value

The commission is satisfied that, pursuant to section 269TAC(2)(a)(ii), because of the situation in the domestic market for the goods in China, sales in that market are not suitable for use in determining a normal value under section 269TAC(1). This is on the basis that those prices would not permit a proper comparison with the export price for the purposes of determining the dumping margin.

Accordingly, the commission has calculated a normal value under section 269TAC(2)(c)⁶⁶ using the sum of the following:

- the cost of production that reasonably reflects competitive market costs, that is, Dalian Steelforce's cost of production in China absent the particular market situation, in accordance with section 43(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation)

⁶⁶ Under section 269(3A), the Minister is not required to consider working out the normal value of goods under section 269TAC(2)(d) before working out the normal value of goods under section 269TAC(2)(c).

- SG&A on the assumption that the goods, instead of being exported, were sold for home consumption in the OCOT in the country of export based on the company's records in accordance with section 44(2) of the Regulation
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT⁶⁷ in accordance with section 45(2) of the Regulation.

CTM reasonably reflecting competitive market costs

The commission has assessed the raw material input costs in the CTM for Dalian Steelforce. The commission verified that Dalian Steelforce kept its records relating to the goods in accordance with the relevant GAAP⁶⁸ and that the records reasonably reflect the costs associated with the production and sale of the goods. However, the commission was not satisfied that Dalian Steelforce's costs reasonably reflect competitive market costs associated with the production of like goods, due to the influence of the GOC in the domestic Chinese market for HRC. Specifically, the commission considers that HRC costs in China, which make up a major proportion of the total costs of production of the goods, are distorted by GOC influence and do not reasonably reflect competitive market costs associated with the production or manufacture of the goods in accordance with section 43(2)(b)(ii) of the Regulation. Accordingly, the commission considers it appropriate to adjust HRC costs relating to the costs of production in Dalian Steelforce's records to reflect competitive market costs, i.e. the costs absent the particular market situation caused by the GOC's influence. The commission has not adjusted any of the other items recorded in Dalian Steelforce's cost of production.

After having made this adjustment, the commission considers that Dalian Steelforce's records satisfy the requirements of section 43(2) of the Regulation. The commission consequently worked out the amount for the cost of production in Dalian Steelforce's normal value under section 269TAC(2)(c) using information set out in Dalian Steelforce's records.

Non-confidential APPENDIX C provides further details of this calculation.

SG&A costs

In accordance with section 44(2) of the Regulation, the commission has calculated an amount for SG&A based on Dalian Steelforce's records for its domestic SG&A costs, as verified by the commission. The commission amended the SG&A that Dalian Steelforce originally submitted in its REQ to accurately reflect the SG&A in relation to like goods.

⁶⁷ Section 269TAAD states that domestic sales of like goods are not in the OCOT if 'arms length' transactions are unprofitable in substantial quantities over an extended period and unlikely to be recoverable within a reasonable period. For the purposes of this inquiry, the 'extended period' and 'reasonable period' are the inquiry period.

⁶⁸ Generally Accepted Accounting Principles

The amendments are contained in exceptions listed in Dalian Steelforce's verification report.⁶⁹

An amount for profit

The commission found that Dalian Steelforce did not make a profit based on the production and domestic sale of like goods that were 'arms length' in the OCOT. Therefore, the commission cannot practicably work out the profit under section 45(2) of the Regulation using data relating to the production and sale of like goods by Dalian Steelforce in the OCOT.

Therefore, the commission can determine the amount of profit under either:

- section 45(3)(a) of the Regulation, identifying the actual amounts realised by the exporter or producer from the sale of the same general category of goods, or
- section 45(3)(b) of the Regulation, identifying the weighted average of the actual amounts realised by other exporters or producers from the sale of like goods in the domestic market, or
- section 45(3)(c) of the Regulation, using any other reasonable method and having regard to all relevant information.

The commission can use any of these three methods as there is no hierarchy.

In REV 529, which is the most recent review of the variable factors for Dalian Steelforce, the commission calculated Dalian Steelforce's normal value under section 269TAC(2)(c). On that occasion, the commission determined the amount of profit based on the weighted average of the actual amounts realised by other exporters from the sale of like goods in the domestic market pursuant to section 45(3)(b) of the Regulation.

The commission considers that it can calculate an amount of profit for this inquiry, pursuant to section 45(3)(c) of the Regulation, using the amount that the commission determined for Dalian Steelforce in REV 529. As the commission based that amount on the weighted average achieved by other exporters, it does not exceed the amount normally realised by exporters, which is a requirement of section 45(3)(d).

Adjustments

The commission is satisfied that there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). The Commission considers these adjustments necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export credit terms	Add an amount for export credit terms

⁶⁹ EPR 590, No. 26, section 7.3.

Value added tax (VAT) rebate	Add an amount for non-refundable VAT
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Table 11: Summary of adjustments – Dalian Steelforce

Dumping margin

The dumping margin in respect of the goods exported to Australia by Dalian Steelforce for the inquiry period is **9.4%**.

The Commission's calculations are in **Confidential Attachments 5 to 7**.

7.4.2 Residual exporters – China

Hengshui Jinghua and Tianjin Ruitong were residual exporters from China.

Export price

The export price for residual Chinese exporters has been calculated in accordance with section 269TACAB(2)(c), which provides that the export price for residual exporters must not be less than the weighted average export price for like goods of selected cooperative exporters from the country of export. As the commission only calculated an export price for Dalian Steelforce, the commission has used its export price.

Normal value

The normal value for residual Chinese exporters has been calculated in accordance with section 269TACAB(2)(d), which provides that the normal value must exceed the weighted average normal value for like goods of selected cooperative exporters from the country of export. As the commission only calculated a normal value for Dalian Steelforce, the commission has used its normal value.

Dumping margin

The dumping margin in respect of the goods exported to Australia by residual Chinese exporters for the inquiry period is **9.4%**.

The commission's calculations are included in **Confidential Attachment 8**.

7.4.3 Uncooperative and all other exporters – China

As detailed in chapter 7.3.3, the commission considers all exporters of the goods from China are uncooperative exporters, except for Dalian Steelforce, Hengshui Jinghua and Tianjin Ruitong.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

Export prices

Pursuant to section 269TACAB(1)(d), the commission has determined an export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information.

In the present circumstances, the relevant information available to the commission includes the verified export price data for one Chinese exporter, Dalian Steelforce, and the FOB export prices for Chinese exporters who exported to Australia, as reported in the ABF import database.

The ABF import database shows that there are a number of Chinese exporters exporting the goods to Australia at a price significantly lower than Dalian Steelforce over the inquiry period. The commission considers that this indicates a price at which uncooperative exporters are likely exporting like goods to Australia.

Accordingly, the commission has determined an export price for uncooperative exporters using the lowest weighted average FOB export price for the inquiry period of Chinese exporters who exported to Australia during the inquiry period as reported in the ABF import database. The commission considers that the lowest weighted average export price demonstrates a price at which an uncooperative exporter may export like goods to Australia, based on the information before the commission. The commission calculated the weighted average export price using all exports of the goods by that exporter during the inquiry period.

Normal value

Pursuant to section 269TACAB(1)(e), the commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the commission has used the constructed normal value established for Dalian Steelforce, less favourable adjustments.

The commission has chosen the normal value of Dalian Steelforce on the basis that:

- the commission does not have specific information relating to the uncooperative exporters relevant to the calculation of the normal value
- the normal value of Dalian Steelforce demonstrates a price at which an uncooperative exporter may sell the goods in the domestic Chinese market, based on the information before the commission.

Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative exporters for the inquiry period is **30.4%**.

The commission's calculations are included in **Confidential Attachment 9**.

7.5 Dumping assessment – Republic of Korea

7.5.1 HiSteel

Verification

The commission conducted a virtual verification of HiSteel's REQ.

The commission is satisfied that HiSteel is the producer of the goods and like goods. The Commission is further satisfied that the information provided by HiSteel is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.⁷⁰

Export price

The commission considers HiSteel to be the exporter of the goods, as HiSteel:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- is named as consignor on the bill of lading
- arranges and pays for the inland transport to the port of export
- arranges and pays for the port handling charges at the port of export.

The commission is satisfied that for all its Australian export sales during the inquiry period, HiSteel was the exporter of the goods.

In respect of HiSteel's Australian sales of the goods to its unrelated customer, Macsteel, during the period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all domestic sales made by HiSteel to Macsteel during the inquiry period were 'arms length' transactions.

In respect of Australian sales of the goods by HiSteel, the commission has determined an export price under section 269TAB(1)(a), being the price paid by the importer to the exporter, less transport and other costs arising after exportation.

Confidential Attachment 10 contains the commission's preliminary export price calculations for HiSteel.

Normal value

In respect of HiSteel's domestic sales of like goods to its customers during the period, the commission found no evidence that:

⁷⁰ EPR 590, No. 21

- there was any consideration payable for, or in respect of, the goods other than its price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all domestic sales made by HiSteel to its domestic customers during the period were 'arms length' transactions.

Section 269TAAD states that domestic sales of like goods are not in the OCOT if 'arms length' transactions are both of the following:

- unprofitable in substantial quantities over an extended period
- unlikely to be recoverable within a reasonable period.

The commission tested profitability by comparing the net invoice price against the relevant cost for each domestic sales transaction.

The team tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the period.

The commission then tested recoverability by comparing the net invoice price against the relevant weighted average cost over the period for each domestic sales transaction.

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export. An exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

The commission found that there were sufficient volumes of sales of like goods sold for home consumption in the country of export that were 'arms length' transactions and at prices that were within the OCOT. The commission is therefore not satisfied that there is an absence, or low volume, of sales relevant for the purpose of determining a price under section 269TAC(1).

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market. Where the volume of domestic sales of an exported MCC is less than 5% of the volume exported, the commission will consider whether it can make a proper comparison at the MCC level. In these situations, the commission may consider whether

a surrogate domestic MCC should be used to calculate normal value for the exported MCC.

As the volume of relevant domestic sales of each of HiSteel's exported MCCs are 5% or more of the volume exported, the commission considers it can make a proper comparison at the MCC level.

The commission also assessed the total volume of relevant domestic sales of like goods as a percentage of the total volume of goods exported to Australia and found that the volume of relevant domestic sales was not less than 5%.

The commission is satisfied that there were sufficient volumes of sales of like goods sold for home consumption in the country of export that were 'arms length' transactions and sold at prices that were within the OCOT.

The commission has therefore determined the normal value for HiSteel under section 269TAC(1).

Adjustments

The commission is satisfied that there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export bank charges	Add an amount for export bank charges
Export customs clearance fees	Add an amount for customs clearance fees
Export testing expenses	Add an amount for export testing expenses

Table 12: Summary of adjustments – HiSteel

Confidential Attachment 11 contains the commission's preliminary normal value calculations for HiSteel.

Dumping margin

The dumping margin in respect of the goods exported to Australia by HiSteel for the inquiry period is **negative 9.3%**.

The Commission's calculations are included in **Confidential Attachment 12 and 13**.

7.5.2 Uncooperative and all other Korean exporters

As detailed in chapter 7.3.3, the commission considers all exporters of the goods from all exporters from Korea, except for HiSteel and Kukje, are uncooperative exporters for the purposes of this inquiry.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

Export prices

Pursuant to section 269TACAB(1)(d), the commission has determined an export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information.

In the present circumstances, the relevant information available to the commission includes the verified export price data for one Korean exporter, HiSteel, and the FOB export prices for Korean exporters who exported to Australia, as reported in the ABF import database.

The ABF import database shows that HiSteel's verified weighted average export price over the inquiry period is competitive with those of other Korean exporters. The commission considers that HiSteel's price is therefore a price at which uncooperative exporters may export like goods to Australia, based on the information before the commission.

Normal value

Pursuant to section 269TACAB(1)(e), the commission has determined the normal value for the uncooperative exporters in accordance with to section 269TAC(6) after having regard to all relevant information. Specifically, the commission has used a normal value based on the verified domestic sales by HiSteel, less favourable adjustments.

The commission has chosen a normal value based on HiSteel's domestic sales because:

- the commission does not have specific information relating to the uncooperative exporters relevant to the calculation of the normal value
- domestic sales by HiSteel, less favourable adjustments, demonstrates sales that an uncooperative exporter may have made in the domestic Korean market during the inquiry period and the price at which those goods might be sold, based on the information before the commission.

Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative exporters for the inquiry period is **13.8%**.

The commission's calculations are included in **Confidential Attachment 9**.

7.6 Dumping assessment – Malaysia

7.6.1 All Malaysian exporters

There were no cooperating exporters from Malaysia.

Export price

Pursuant to section 269TACAB(1)(d), the commission has determined an export price for Malaysian exporters pursuant to section 269TAB(3), having regard to all relevant information.

The ABF import database reported a negligible volume of HSS exported from Malaysia during the inquiry period, which was a single shipment from a single exporter. The commission considers there is a risk in relying on a single shipment in determining an export price, as it could lead to a distortion in the price without further examination by the commission (which the commission could not do in this case due to a lack of evidence from cooperating exporters). Accordingly, the Commissioner considers that the best available information to calculate an export price in the inquiry period is the export price previously ascertained by the Minister following the most recent review, REV 529, with an adjustment for timing.

The commission has calculated the export price timing adjustment as follows:

- the commission has calculated the percentage change in the export price between REV 529 and this inquiry for the 4 exporters whose export price data it has available from REV 529 and whose export price data was examined in this inquiry: Dalian Steelforce, HiSteel, Shin Yang and Ta Fong (common exporters)
- the commission has then calculated the average percentage change in the export price of the common exporters to determine a timing adjustment.

This resulted in the commission applying a timing adjustment of negative 0.9% to the export price ascertained for uncooperative Malaysian exporters in REV 529.

Normal value

Pursuant to section 269TACAB(1)(e), the commission has determined the normal value for Malaysian exporters pursuant to section 269TAC(6), after having regard to all relevant information.

Specifically, in the absence of any domestic sales data for Malaysia, the Commissioner considers that the best available information to calculate a normal value in the inquiry period is the normal value previously ascertained by the Minister in REV 529, with an adjustment for timing.

The commission has calculated the normal value timing adjustment as follows:

- the commission has calculated the percentage change in the normal value between REV 529 and this inquiry for the common exporters

- the commission has then calculated the average percentage change in the normal value of the common exporters to determine a timing adjustment.

This resulted in the commission applying a timing adjustment of negative 5.9% to the normal value ascertained for uncooperative Malaysian exporters in REV 529.

Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative Malaysian exporters for the inquiry period is **20.8%**.

The Commission's calculations are included at **Confidential Attachment 14**.

7.7 Dumping assessment – Taiwan

7.7.1 Shin Yang

Verification

The commission conducted a risk based assessment of Shin Yang's REQ with a view to verifying the information efficiently and effectively, in accordance with the intent of ADN No. 2016/30. Based on that assessment, and having regard to the level of detail in the REQ, the commission is satisfied that Shin Yang is the producer of the goods and like goods, and that the information that Shin Yang provided is relevant, accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

Export price

The commission considers that Shin Yang is the exporter of the goods, as Shin Yang:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- is named as the shipper on the bill of lading
- arranges and pays for the inland transport to the port of export
- arranges and pays for the port handling charges at the port of export

The commission is satisfied that for all its Australian export sales during the inquiry period, Shin Yang was the exporter of the goods.

In respect of Shin Yang's export sales of the goods to its unrelated customers during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales made by Shin Yang during the inquiry period were 'arms length' transactions.

in respect of the Australian sales of the goods by Shin Yang, the commission has determined the export price under section 269TAB(1)(a), being the price paid by the importer to the exporter less transport and other costs arising after exportation.

Confidential Attachment 15 contains the commission's preliminary export price calculations for Shin Yang.

Normal value

In respect of Shin Yang's domestic sales of like goods to related and unrelated customers during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller, or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.⁷¹

The commission therefore considers that all domestic sales made by Shin Yang to its related and unrelated domestic customers during the period were 'arms length' transactions.

The commission assessed the total volume of relevant domestic sales of like goods as a percentage of the total volume of goods exported to Australia and found that the volume of relevant domestic sales was not less than 5%.

The commission is satisfied that there were sufficient volumes of sales of like goods sold for home consumption in the country of export that were 'arms length' transactions and sold at prices that were within the OCOT.

The commission found that for one MCC there were insufficient sales of like goods sold in OCOT on the basis that there was an absence, or low volume, of relevant sales of like goods in the Taiwanese domestic market. For this MCC, the commission was satisfied that there were sufficient domestic sales volumes of a surrogate MCC based on the MCC with the closest physical characteristics under the MCC hierarchy structure. Accordingly, the commission has applied a specification adjustment to this MCC when calculating the normal value, as detailed in the table below.

Export MCC	Comment	Surrogate MCC
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⁷¹ Section 269TAA of the Act refers.

P-G-O-O-350-P	Volume of domestic sales MCC is less than 5% of the exported volume	P-G-O-R-350-P has been used as a surrogate due to the similarity between MCCs
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Table 13: Surrogate export MCC

As the volume of domestic sales of the remainder of Shin Yang's exported MCCs are 5% or more of the volume exported, the commission considers it can make a proper comparison at the MCC level.

The commission has therefore determined the normal value for Shin Yang under section 269TAC(1).

Adjustments

The commission is satisfied that there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The commission considers these adjustments necessary to ensure a fair comparison of normal values and export prices:

Adjustment type	Deduction/addition
Domestic packaging	Deduct an amount for domestic packaging
Domestic inland transport	Deduct an amount for domestic inland transport
Export packaging	Add an amount for export packaging
Export inland transport	Add an amount for export inland transport
Export commission	Add an amount for export commission
Export handling & other	Add an amount for export handling & other
Specification adjustment	Adjustment made using the cost to make and sell difference and an amount for OCOT profit

Table 14: Summary of adjustments – Shin Yang

Dumping margin

The dumping margin in respect of the goods exported to Australia by Shin Yang for the inquiry period is **negative 0.7%**

The Commission's calculations for Shin Yang are included in **Confidential Attachments 16 to 18**.

7.7.2 Ta Fong

Verification

The commission conducted a risk based assessment of Ta Fong's REQ with a view to verifying the information efficiently and effectively, in accordance with the intent of ADN No. 2016/30. Based on that assessment, and having regard to the level of detail in the REQ, the commission is satisfied that Ta Fong is the producer of the goods and like goods, and that the information that Ta Fong provided is relevant, accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

Export price

PUBLIC RECORD

The commission considers that Ta Fong is the exporter of the goods, as Ta Fong:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- is named as the shipper on the bill of lading
- arranges and pays for the inland transport to the port of export
- arranges and pays for the port handling charges at the port of export

The commission is satisfied that for all its Australian export sales during the inquiry period, Ta Fong was the exporter of the goods.

In respect of Ta Fong's export sales of the goods to its unrelated customers during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales made by Ta Fong during the inquiry period were 'arms length' transactions.

in respect of the Australian sales of the goods by Ta Fong, the commission has determined the export price under section 269TAB(1)(a), being the price paid by the importer to the exporter less transport and other costs arising after exportation.

Confidential Attachment 19 contains the commission's preliminary export price calculations for Ta Fong.

Normal value

In respect of Ta Fong's domestic sales of like goods to its customers during the period, the commission found no evidence:

- there was any consideration payable for, or in respect of, the goods other than its price
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller, or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all domestic sales made by Ta Fong to its domestic customers during the period were 'arms length' transactions.

As the volume of relevant domestic sales of each of Ta Fong's exported MCCs are 5% or more of the volume exported, the commission considers it can make a proper comparison at the MCC level.

The commission also assessed the total volume of relevant domestic sales of like goods as a percentage of the total volume of goods exported to Australia and found that the volume of relevant domestic sales was not less than 5%.

The commission is satisfied that there were sufficient volumes of sales of like goods sold for home consumption in the country of export that were 'arms length' transactions and sold at prices that were within the OCOT.

The commission has therefore determined the normal value for Ta Fong under section 269TAC(1).

Adjustments

The commission is satisfied that there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The commission considers these adjustments necessary to ensure a fair comparison of normal values and export prices:

Adjustment type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic credit terms	Deduct an amount for domestic credit terms
Export inland transport	Add an amount for export inland transport
Export handling & other	Add an amount for export handling & other
Export credit terms	Add an amount for export credit terms

Table 15: Summary of adjustments – Ta Fong

Dumping margin

The dumping margin in respect of the goods exported to Australia by Ta Fong for the inquiry period is **negative 1.9%**

The commission's calculations for Ta Fong are included in **Confidential Attachments 20 to 22**.

7.7.3 Residual exporters – Taiwan

Tension Steel is a residual exporter from Taiwan.

Export price

The export price for residual Taiwanese exporters has been calculated in accordance with section 269TACAB(2)(c), which provides that the export price for residual exporters must not be less than the weighted average export price for like goods of selected cooperative exporters from the country of export.

Normal value

The normal value for residual Taiwanese exporters has been calculated in accordance with section 269TACAB(2)(d), which provides that the normal value must exceed the weighted average normal value for like goods of selected cooperative exporters from the country of export.

Dumping margin

The dumping margin in respect of the goods exported to Australia by residual Taiwanese exporters for the inquiry period is **negative 0.8%**.

The commission's calculations are included in **Confidential Attachment 8**.

7.7.4 Uncooperative and all other exporters – Taiwan

As detailed in chapter 7.3.3, the commission considers all exporters of the goods from Taiwan are uncooperative exporters, except for Shin Yang, Ta Fong and Tension Steel.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

Export prices

Pursuant to section 269TACAB(1)(d), the commission has determined an export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information.

As the commission has access to verified Taiwanese exporter data from multiple exporters, the commission has used the lowest verified weighted average FOB export price of cooperating Taiwanese exporters who exported to Australia during the inquiry period.

The commission has chosen the lowest verified export price on the basis that the lowest weighted average export price demonstrates a price at which an uncooperative exporter may export like goods to Australia, based on the information before the commission.

Normal value

Pursuant to section 269TACAB(1)(e), the commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the commission has used the highest verified normal value for the inquiry period of cooperating Taiwanese exporters who exported to Australia during the inquiry period, less favourable adjustments. The commission chose this on the basis that:

- the commission does not have specific information relating to the uncooperative exporters, relevant to the calculation of the normal value
- the highest normal value of cooperating exporters, less favourable adjustments, demonstrates a price at which an uncooperative exporter may sell the goods in the domestic Taiwanese market, based on the information before the commission.

Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative Taiwanese exporters for the inquiry period is **23.5%**.

The commission's calculations are included in **Confidential Attachment 9**.

8 COUNTERAVAILABLE SUBSIDIES RECEIVED DURING THE INQUIRY PERIOD

8.1 Preliminary finding

The Commission has preliminarily found that countervailable subsidies were received in respect of the goods exported to Australia from China during the inquiry period, at the rates set out in the table below.

Entity	Subsidy Margin
Dalian Steelforce	N/A – Dalian Steelforce is exempt from the countervailing duty notice
Huludao	N/A – Huludao is exempt from the countervailing duty notice
Hengshui Jinghua	0.0% ⁷²
Tianjin Ruitong	8.4%
Non-cooperative entities	51.0%

Table 16: Summary of subsidy margins

8.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, subsidisation. The existence of subsidisation during the inquiry period may be an indicator of whether subsidisation may occur in the future.

Subsidisation occurs when a financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to goods exported to Australia.⁷³ The amount of a countervailable subsidy is determined in accordance with section 269TACD. Further details of the amount of countervailable subsidisation for each entity are set out below.

⁷² Hengshui Jinghua has been found to have received countervailable subsidies in respect of the goods which rounds to 0.0% at one decimal place.

⁷³ Section 269T(1).

8.3 Subsidy programs

REV 529 identified a total of 59 countervailable subsidy programs as applicable to exports of the goods from China.

During the course of the inquiry, verification responses lodged by cooperating entities identified an additional program under which a countervailable subsidy was provided in relation to Chinese exports of the goods to Australia during the inquiry period: *Program 590-1 – Hebei Province Quality Awards*.⁷⁴

The commission has set out each program investigated in respect of exports of the goods from China and its finding in respect of each program in the table below.

Program No.	Name	Type ⁷⁵	Countervailable subsidy (Yes/No)
1	Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones	Tax	Yes
2	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'	Grant	Yes
5	Matching Funds for International Market Development for Small and Medium Enterprises	Grant	Yes
6	Superstar Enterprise Grant	Grant	Yes
7	Research & Development (R&D) Assistance Grant	Grant	Yes
8	Patent Award of Guangdong Province	Grant	Yes
10	Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years	Tax	Yes
11	Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)	Tax	Yes
12	Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai	Tax	Yes
13	Preferential Tax Policies in the Western Regions	Tax	Yes
14	Tariff and VAT Exemptions on Imported Materials and Equipment	Tax	Yes
15	Innovative Experimental Enterprise Grant	Grant	Yes

⁷⁴ The commission has designated this program no. 590-1.

⁷⁵ A subsidy in the form of a grant is generally where a public body has provided direct funding to the recipient. A subsidy in the form a tax is generally where the recipient has received a lower or preferential tax rate. A subsidy in the form of 'Less than adequate remuneration' (LTAR) is generally where a manufacturer has purchased cost inputs at a price that is considered less than adequate remuneration for that input.

PUBLIC RECORD

Program No.	Name	Type⁷⁵	Countervailable subsidy (Yes/No)
16	Special Support Fund for Non State-Owned Enterprises	Grant	Yes
17	Venture Investment Fund of Hi-Tech Industry	Grant	Yes
18	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	Grant	Yes
19	Grant for key enterprises in equipment manufacturing industry of Zhongshan	Grant	Yes
20	Hot rolled steel provided by government at less than fair market value	LTAR	Yes
21	Water Conservancy Fund Deduction	Grant	Yes
22	Wuxing District Freight Assistance	Grant	Yes
23	Huzhou City Public Listing Grant	Grant	Yes
27	Huzhou City Quality Award	Grant	Yes
28	Huzhou Industry Enterprise Transformation & Upgrade Development Fund	Grant	Yes
29	Land Use Tax Deduction	Tax	Yes
30	Wuxing District Public Listing Grant	Grant	Yes
31	Anti-dumping Respondent Assistance	Grant	Yes
32	Technology Project Assistance	Grant	Yes
34	Balidian Town Public Listing Award	Grant	Yes
35	Preferential Tax Policies for High and New Technology Enterprises	Tax	Yes
36	Local Tax Bureau Refund	Tax	Yes
37	Return of Farmland Use Tax	Tax	Yes
38	Return of Land Transfer Fee	Tax	Yes
39	Return of Land Transfer Fee From Shiyou	Tax	Yes
40	Dining lampblack governance subsidy of Jinghai County Environmental Protection Bureau	Grant	Yes
41	Discount interest fund for technological innovation	Grant	Yes
42	Energy conservation and emission reduction special fund project in 2015	Grant	Yes
43	Enterprise famous brand reward of Fengnan Finance Bureau	Grant	Yes
44	Government subsidy for construction	Grant	Yes
45	Infrastructure Construction Costs Of Road In Front Of No.5 Factory	Grant	Yes
46	New Type Entrepreneur Cultivation Engineering Training Fee Of Jinghai County Science And Technology Commission	Grant	Yes
47	Subsidy for Coal-Fired Boiler of Fengnan Subtreasury	Grant	Yes
48	Subsidy for Coal-Fired Boiler Rectification	Grant	Yes

PUBLIC RECORD

Program No.	Name	Type ⁷⁵	Countervailable subsidy (Yes/No)
49	Subsidy for District Level Technological Project	Grant	Yes
50	Subsidy For Pollution Control Of Fengnan Environmental Protection Bureau	Grant	Yes
51	Subsidy from Science and Technology Bureau of Jinghai County	Grant	Yes
52	Subsidy of Environment Bureau transferred from Shiyou	Grant	Yes
53	Supporting fund for exhibition from Hongqiao District Commerce Commission	Grant	Yes
54	Government subsidy for job stability	Grant	Yes
55	Commercial Committee Support Fund	Grant	Yes
56	Tianjin Municipal Bureau of Commerce July 2018-December 2018	Grant	Yes
57	Aiding fees for cases of technology information collection	Grant	Yes
58	Patent supporting fund from Science and Technology Bureau of Jinghai District 2019	Grant	Yes
59	Patent supporting fund for 2017 program	Grant	Yes
60	Subsidy for patent from Science and Technology Bureau Fengnan District, Tangshan City	Grant	Yes
61	Subsidy for Energy collection from the Tangshan Quality and Technology Supervision Bureau	Grant	Yes
62	Award to the Patent Innovation from Science and Technology Bureau Fengnan District	Grant	Yes
63	Technical innovation subsidy for dedusting equipment and boiler	Grant	Yes
64	Awards to technology innovation from Bureau of Industry and Information Technology Fengnan District	Grant	Yes
65	Awards to "Well-Known Trademarks" from Hebei Province Market Supervision administration Bureau	Grant	Yes
66	Grant for Technology ERP	Grant	Yes
590-1	Hebei Province Quality Awards.	Grant	Yes

Table 17: Subsidy programs considered in this inquiry

The commission's assessment of each subsidy program is in **Non-confidential APPENDIX D**.

8.3.1 Information considered by the commission

Section 269TAACA(1) provides that, in determining whether a countervailable subsidy has been received in respect of particular goods, the Commissioner may act on the basis of all the facts available and may make such assumptions as the Commissioner considers reasonable when an entity:

- has not given the Commissioner information the Commissioner considers to be relevant to the inquiry within a period the Commissioner considers to be reasonable or
- has significantly impeded the inquiry.

Section 269TAACA(2) provides section 269TAACA(1) applies to the following entities:

- any person who is or is likely to be directly concerned with the import or export into Australia of the goods to which the inquiry
- the government of the country of export of goods to which the inquiry relates.

The commission sent the GOC a questionnaire requesting information necessary for the inquiry into the previously identified countervailable subsidies. The commission did not receive a response to this questionnaire from the GOC. Accordingly, because the GOC has not given the commission information considered to be relevant to the inquiry, the commission has determined whether a countervailable subsidy has been received in respect of the goods in accordance with section 269TAACA(1).

The commission has relied upon the previous findings in REV 529, being the most recent relevant review of the goods exported from China and any relevant information provided by cooperating exporters in assessing the alleged subsidy programs. This includes information provided by Tianjin Ruitong and Hengshui Jinghua in their REQs.

8.4 Calculation of subsidy margins

8.4.1 Dalian Steelforce and Huludao

Dalian Steelforce and Huludao are not subject to subsidy measures in respect of the goods.

8.4.2 Tianjin Ruitong

The commission found no evidence that Tianjin Ruitong received a benefit under any of the programs listed in Table 16, other than Program 20 LTAR – Hot rolled steel provided by government at less than fair market value. This is consistent with the commission's findings in REV 529.

In its REQ, Tianjin Ruitong states that, to its knowledge, none of its suppliers are State-Owned Enterprises (SOEs). However, upon examination of its raw material purchases, the commission identified a number of suppliers who it considers are SOEs, based on its previous examination of Tianjin Ruitong's raw material purchases in REV 529.

After adjusting Tianjin Ruitong's records to accurately reflect the ownership status of its suppliers (and using the data of its related export trading company, Huaxing, as discussed in chapter 7.3.2) the commission found that Tianjin Ruitong had received a countervailable subsidy in relation to Program 20.

Based on the information available, the Commission had calculated a subsidy margin for Tianjin Ruitong of **8.4%**.

The Commission's countervailable subsidy calculations for Tianjin Ruitong are contained in **Confidential Attachment 23**.

8.4.3 Hengshui Jinghua

The commission noted that within Hengshui Jinghua's non-selected exporter questionnaire, this exporter had reported receiving a benefit in respect of the following programs:

- Program 20 LTAR - Hot rolled steel provided by government at less than fair market value
- Program 54 Government Subsidy for Job Stability
- Program 590-1 Hebei Province Quality Awards

The Commission examined the evidence provided and found that Hengshui Jinghua had received a countervailable subsidy in relation to these programs.

Based on the information available, the Commission has calculated a subsidy margin (to one decimal place) for Hengshui Jinghua of **0.0%**.

The Commission's countervailable subsidy calculations for Hengshui Jinghua are contained in **Confidential Attachment 24**.

8.4.4 Non-cooperative Chinese entities

The subsidy margin for non-cooperative entities is determined, pursuant to section 269TAACA, based on all facts available and having regard to reasonable assumptions.

When determining the countervailable subsidies for non-cooperative entities, the Commissioner has made reasonable assumptions to determine whether non-cooperative entities received a countervailable subsidy in respect of the goods and the amount of the countervailable subsidy.

The commission has assumed that non-cooperative entities benefited from non-regional countervailable subsidies and the highest region-specific subsidy. The commission considers that this approach avoids the potential for double-count of similar programs between regions.

The subsidy margin for each program is the higher of the following:

- the margins applicable to each program based on the most recent findings made by the commission in respect of HSS subsidies provided to Chinese manufacturers (REV 529)
- the margins calculated for cooperating Chinese entities as part of this inquiry.

The Commission summed up the subsidy margins for each program to obtain the total subsidy margin. Based on the information available to the commission, the commission has calculated a subsidy margin for non-cooperative entities of **51.0%**.

The Commission's countervailable subsidy calculations for non-cooperative Chinese entities are contained in **Confidential Attachment 25**.

8.5 Summary of subsidy margins

The commission has summarised the countervailable subsidy programs applicable to each exporter and subsidy margin for the inquiry period in the following table.

Exporter	Program	Subsidy Margin
Hengshui Jinghua	Program 20 - LTAR - Hot rolled coil provided by government at less than fair market value Program 54 - Government Subsidy for Job Stability Program 590-1 – Hebei Province Quality Awards	0.0%
Tianjin Ruitong	Program 20 - LTAR - Hot rolled coil provided by government at less than fair market value	8.4%
Non-cooperative entities	Program 1 - Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones Program 2 - One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China' Program 5 - Matching Funds for International Market Development for Small and Medium Enterprises Program 6 - Superstar Enterprise Grant Program 7 - Research & Development (R&D) Assistance Grant Program 8 - Patent Award of Guangdong Province Program 10 - Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years Program 14 - Tariff and VAT Exemptions on Imported Materials and Equipments Program 15 - Innovative Experimental Enterprise Grant Program 16 - Special Support Fund for Non State-Owned Enterprises Program 17 - Venture Investment Fund of Hi-Tech Industry Program 18 - Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment Program 19 - Grant for key enterprises in equipment manufacturing industry of Zhongshan Program 20 - Hot rolled steel provided by government at less than fair market value Program 21 - Water Conservancy Fund Deduction Program 29 - Land Use Tax Deduction Program 31 - Anti-dumping Respondent Assistance Program 32 - Technology Project Assistance Program 35 - Preferential Tax Policies for High and New Technology Enterprises Program 36 - Local Tax Bureau Refund	51.0%

PUBLIC RECORD

Exporter	Program	Subsidy Margin
	Program 37 - Return of Farmland Use Tax Program 38 - Return of Land Transfer Fee Program 39 - Return of Land Transfer Fee From Shiyou Program 41 - Discount interest fund for technological innovation Program 42 - Energy conservation and emission reduction special fund project in 2015 Program 44 - Government subsidy for construction Program 45 - Infrastructure Construction Costs Of Road In Front Of No.5 Factory Program 48 - Subsidy for Coal-Fired Boiler Rectification Program 49 - Subsidy for District Level Technological Project Program 54 - Government subsidy for job stability Program 55 - Commercial Committee Support Fund Program 57 - Aiding fees for cases of technology information collection Program 59 - Patent supporting fund for 2017 program Program 63 - Technical innovation subsidy for dedusting equipment and boiler Program 66 - Grant for Technology ERP	

Table 18: Summary of countervailable subsidy programs and subsidy margins - inquiry period

9 LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR

9.1 Preliminary finding

This chapter examines whether the expiration of the current measures would be likely to lead to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

On the basis of the evidence available, the Commissioner is satisfied that:

- in relation to all exporters from China, Malaysia and Taiwan, and all exporters from Korea other than HiSteel, the expiration of the current measures would be likely to lead to a continuation of, or a recurrence of, the dumping and subsidisation the material injury that the measures are intended to prevent
- in relation to HiSteel, the expiration of the current measures would not be likely to lead to a continuation of, or a recurrence of, the dumping and material injury the measures are intended to prevent.

9.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation.

9.3 Australian industry's claims

The Australian industry has made the following claims regarding the continuation or recurrence of injury of HSS exported to Australia from the subject countries:

- the combined volume of HSS exported from the subject countries is significant and based on its research, represents over 50% of total imports
- exporters from the subject countries have maintained distribution links into the Australian market and these established export pathways present an opportunity for exporters to increase sales volume of dumped and subsidised HSS in the absence of measures
- anti-dumping and other similar trade measures applying to exporters of HSS from the subject countries by other jurisdictions will influence the future export orientation of HSS towards destinations where measures do not apply
- global oversupply in steel markets means that displaced export volumes will increasingly be diverted to open markets, making Australia an attractive destination for excess HSS production

- exporters from the subject countries have excess production capacity to increase exports to Australia in the absence of measures
- the Australian market for HSS is price sensitive and Australian industry continues to set its prices having regard to import prices
- exports from the subject countries have continued during the period of inquiry at prices which have undercut Australian industry selling prices
- in the absence of measures, exporters currently subject to measures would further lower prices to increase market share
- the Australian industry would suffer price depression as it reduces selling prices to limit the loss of sales volumes caused by the lower prices from the subject exporters, with a consequential impact on profit and profitability.

The Australian industry therefore claims that it is reasonable to expect that the expiration of the current measures would lead, or would be likely to lead, to a continuation of material injury that the measures were intended to prevent.

Australian industry's submissions are discussed in further detail below.

9.3.1 Submission received from Austube Mills

The commission received a submission from Austube Mills regarding Malaysian exporters on the 22 February 2022. In its submission, Austube Mills stated that:

- Exports of HSS from Malaysia to Australia peaked in 2011 but had fallen 46% by 2013 following the imposition of anti-dumping measures in July 2012. In response to the dumping investigation commencing in 2011 and measures being imposed in Australia in 2012, Malaysian exporters of HSS changed their pattern of trade opting to increase their export volumes to New Zealand where no anti-dumping measures were in force.
- By 2014, Malaysian exports of HSS to Australia had largely recovered the volumes from the 2010/2011 period prior to measures being imposed. However, the recovery in export volumes of Malaysian origin was subsequently found to be due to Alpine Pipe circumventing the measures by adding minor amounts of boron to the steel to change the tariff classification through minor modification of the steel chemistry from a 'carbon' steel to an 'alloy' steel.
- Austube Mills submits that the change in patterns of trade exhibited by Malaysian exporters of HSS in switching their focus from Australia to other countries relates primarily to the effectiveness of the measures imposed in Australia. In the absence of effective measures, it is more likely than not that Malaysian exporters would again recommence exporting the goods to Australia at prices similar to New Zealand which are more likely than not dumped. In 2021 Malaysian exports of HSS goods to New Zealand were 35% below the price of HSS products exported to Australia – given an identical normal value, this is compelling evidence of dumping.
- Malaysian exporters of HSS, such as Alpine Pipe, are long-term, well-established exporters of HSS to Australia and New Zealand where, as noted by the commission, the same standard for HSS applies to both markets i.e., AS/NZS11631.

- Austube Mills is aware that export volumes of the goods from Malaysia to Australia have been limited in the past few years with the effectiveness of the existing measures likely to have been a contributing factor. Austube Mills is also aware that Malaysian exporters of the goods have not completed an exporter questionnaire in this inquiry and the commission is unlikely to verify them.
- Austube Mills submits that Malaysian exporters' changes in export patterns away from Australia when measures are effective towards other countries with no measures in place, such as New Zealand, provides the Commissioner with compelling evidence to be satisfied that the expiration of measures would lead or would be likely to lead, to a continuation or recurrence of the dumping and the material injury that the anti-dumping measures are intended to prevent.
- The commission is aware that Austube Mills' prices of HSS continue to be directly influenced by the landed prices of imported goods and as such dumped Malaysian goods would significantly undercut the Australian industry's prices causing suppression and depression of its prices and lost volumes leading to material injury in the form of lost profits and profitability, should measures against Malaysian exporters be allowed to expire.
- In 2017, CON 379 found that Alpine Pipe and other Malaysian exporters of HSS had dumping margins of 53%. As a consequence of the effectiveness of the measures imposed, Malaysian export volumes of HSS to Australia fell dramatically while remaining at high export volumes to New Zealand
- In 2015, the Australian government introduced a new regulation to prevent circumvention via minor modification. In March 2016 Alpine Pipe was one of a number of exporters found circumventing the measures. Following this decision, Malaysian export volumes to Australia fell by 80% in the period between 2014 and 2017. Over the same period that the exports to Australia declined by 80%, Malaysian exporters to New Zealand increased export volumes by 150% while reducing their prices to achieve these export volumes.
- Alpine Pipe participated in REV 529, a strong indicator that they were still very interested in exporting HSS to Australia. In 2021, REV 529 found that there was insufficient information to ascertain the export price of the goods in the review period for Alpine Pipe under section 269TAB(1), due to an absence of exports to Australia and instead used third country export sales to New Zealand as the most suitable proxy. Alpine Pipe were found to have a dumping margin of 26.3% while other Malaysian exporters a margin of 27.2%.
- In REV 529 the Commission identified that New Zealand represents an appropriate third country for consideration with respect to exports of HSS in the absence of exports to Australia:
 - the New Zealand market is the most comparable to the Australian market in terms of conditions, domestic production, common importers and general customs import tariffs
 - there is close geographical proximity between New Zealand and Australia, and it is reasonable to expect similar shipping costs
 - the export quantity to New Zealand was the largest of the four countries to which Alpine Pipe exported the goods, complying with the standard AS/NZS 1163, and was also similar to the maximum volumes previously exported to Australia.

9.3.2 Submissions received from Orrcon

The commission has received submissions from Orrcon regarding the anticipated outcome if the measures expired.

In its submission on 11 March 2022, Orrcon stated that:

- In the absence of anti-dumping measures, the continuation and recurrence of dumping and subsidisation, and consequent material injury is more probable than not.
- If the Commissioner did not continue the measures, Orrcon asserts the following will transpire: (1) subject exports will rapidly enter the Australian market, (2) those exports will have significant negative effects on Australian pricing, and (3) these events will have a significant negative impact on the domestic industry.
- Orrcon emphasised that the commission must consider the likely volume, price, and economic impact of imports of the subject goods on the Australian industry if the measures expire. Orrcon also noted that the commission's forward-view injury determination in CON 379 is important as this period is the most recent time in which the commission considered whether, in the absence of the measures, material injury would continue and/or recur to the domestic industry.
- Demand in the commercial and residential construction sector, and in the manufacturing, transport, and rural sectors drives demand for the goods. The overall economic conditions in the Australian market impact these sectors.
- External factors, such as global capacity and production, and changes in global and domestic demand for HSS, continue to have an impact on the Australian market for the goods. Such factors affect the price and volume of HSS imported into Australia, which consequently affects prevailing market conditions in the Australian market.
- HSS production is technically sophisticated, the production of the goods is capital intensive with a high degree of fixed costs. The incentive to maintain high capacity utilisation rates will likely encourage subject producers to ship significant additional volumes of the goods to Australia if the measures expire.
- Subject exports from China, Korea, Malaysia and Taiwan remain highly interchangeable with the domestic like product, translating to a strong level of substitutability between the subject and domestic merchandise.
- Price is a critical factor in the purchase decision for the goods, meaning purchasers are highly price sensitive and that price is the determining factor in the purchase decision. If low-priced subject goods exports from China, Korea, Malaysia and Taiwan enter the Australian market, they will place downward pressure on domestic pricing.
- The conditions of competition in the market have not changed significantly since the first imposition of the measures. Upon expiration, both the subject and domestic suppliers of the goods will face the same conditions of competition that affected demand for, and the pricing of, the goods during the original period of investigation (and those as highlighted in CON 379).
- Orrcon argues that without current measures in place there will be a surge in volume from subject countries, as such, subject producers in China, Korea,

Malaysia and Taiwan will have the ability and incentive to ship significant volumes of goods to Australia.

- Australia is an attractive market for exporters and such exporters face challenges that will cause them to seek export opportunities in Australia if measures expire.
- Given the large amounts of capacity in the subject countries, the historically materially injurious pricing practices of the subject exporters, the high degree of substitutability between the subject and domestic goods, the importance of price in the purchase decision, and the expected near-term and longer-term future conditions of the Australian steel market, the subject exporters are again set to likely undersell the domestic like product significantly should the measures lapse. By doing so, they will have a depressing and/or suppressing effect on domestic prices.
- Orrcon's arguments above indicate that without anti-dumping measures, there will again likely be a rapid increase in the volume and market participation rate of subject exporters. This increase will cause substantial declines in the domestic industry's sales, production, and employment, as well as an increase in per-unit fixed costs.
- The additional volume of subject exports and extensive underselling by subject exporters will also have a depressing and/or suppressing effect on domestic prices. These adverse volume and price effects will, in turn, lead to a significant decline in the domestic industry's financial performance and have a deleterious impact on other economic factors.

The commission has considered the submissions of both Austube Mills and Orrcon in its determination of the likelihood that dumping, subsidisation and material injury will continue or recur.

9.4 Are exports likely to continue or recur?

The commission has had regard to the following factors to determine whether exports of the goods are likely to continue or recur should the measures expire:

- import volumes
- maintenance of distribution links
- excess production capacity of the subject exporters.

9.4.1 Import volumes

Table 19 shows the change in the volume of the goods imported from each subject country in the period 1 July 2016 to 30 June 2021.⁷⁶

Country	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
China	100	74	65	54	57
Korea	100	73	149	142	205

⁷⁶ The Minister revoked measures in respect of Kukje from 13 March 2021, however for the purposes of this analysis the volume of goods imported from Korea includes those exported by Kukje.

PUBLIC RECORD

Malaysia	100	2	-	2	4
Taiwan	100	79	66	53	63
Total	100	73	75	65	77

Table 19: Index of change in import volume of subject goods

Having regard to the trends in the data contained in Table 19, the commission observed that:

- following the continuation of measures in July 2017 the volume of exports from all countries decreased
- this trend continued for China and Taiwan until FY 2020, however both countries saw an increase in export volumes during FY 2021
- the volume of exports from Korea recovered in FY 2019 and further consolidated in FY 2021
- the volume of exports from Malaysia effectively ceased after the continuation of measures in July 2018, however small volumes have been evident in each year except FY 2019.

The commission also analysed changes in the number of exporters from the subject countries across the same period. The commission observed that:

- the total number of unique exporters supplying greater than 100 tonnes per annum to the Australian market from the subject countries reduced from 34 to 31
- despite this overall reduction, the number of exporters from China increased, while the number from the other subject countries remained steady or diminished
- of the 34 exporters referenced above, only 7 continued to supply greater than 100 tonnes in FY 2021, indicating that an additional 24 exporters had commenced supplying the Australian market, or had increased volumes significantly, while 24 had ceased supplying the market or experienced significantly diminished export volumes.

This analysis indicates that Australia remains an attractive market for exporters of HSS and that as a commodity product, new exporters are able to access the Australian HSS market with relative ease.

9.4.2 Maintenance of distribution links to the Australian market

To assess the maintenance of exporter's distribution links to the Australian market the commission has had regard to the ABF importation data for the period 1 July 2016 to 30 June 2021.

The commission observed that the 4 largest exporters from the subject countries in FY17 accounted for 76% of the total exports from those countries, and that these same 4 exporters accounted for 70% of the total volume of exports for FY21. Exports from these exporters continue to be distributed through the same trading entities (taking into account corporate acquisitions during this period).

The commission also noted that there were over 100 unique importers of HSS during the inquiry period, 28 of which had also imported from the subject countries in FY17. Of the 28 importers that had imported in both FY17 and FY21, 18 had maintained supply relationships with the same exporters, while 15 had developed new supply relationships.

This analysis indicates that over the last 5 years exporters from the subject countries have both retained distribution links and forged new relationships.

9.4.3 Excess production capacity in the domestic markets of the subject exporters

The commission analysed the excess production capacity available for each of the exporters that submitted capacity utilisation data for the inquiry period. The commission determined that excess capacity ranged between 11% and 71%.

In addition to the excess capacity evident for these exporters with historical links to the Australian market, the commission also noted, as detailed above, the number of new participants in the Australian market, particularly in regards China, Korea and Taiwan. The commission considers that the emergence of these new exporters is indicative of spare production capacity within the domestic markets of these countries.

The commission did not receive REQs from any Malaysian exporters, and therefore does not have any direct evidence in respect of individual manufacturer's surplus production capacity. Publicly available information indicates that the largest manufacturer of the goods in Malaysia, Alpine Pipe, maintains a plant capacity of 500,000 tonnes.⁷⁷ The commission found in REP 379 that production of the goods in Malaysia amounted to approximately 842,000 tonnes in 2015. Based on the excess capacity identified in respect of the other subject countries, and in the absence of contradictory information from Malaysia manufacturers, the commission considers it is reasonable to conclude that Malaysian exporters would maintain excess production capacity.

The commission's conclusions in respect of excess production capacity of the subject countries is supported at a macro-economic level by the Organisation for Economic Co-operation and Development (OECD) September 2021 report on the latest developments in steelmaking capacity⁷⁸. Key findings contained in that report include:

- global crude steelmaking capacity increased by 37.6 million tonnes (MMT), or 1.6%, in 2020 despite extremely weak market conditions, with Asia accounting for the vast majority of that growth
- due to falling production and demand for steel, the global capacity increase led to a worsening excess capacity situation for the world steel industry in 2020 (capacity utilisation fell from an estimated 76.5% to 74.5%)
- capacity is expected to continue expanding over the next few years, with investment projects totalling 45 MMT of additional capacity currently underway and

⁷⁷ <https://alpinepipe.com/about-us/>

⁷⁸ <https://www.oecd.org/industry/ind/latest-developments-in-steelmaking-capacity-2021.pdf> refers.

a further 68.7 MMT in the planning stages, which in total could add 5% to global steelmaking capacity

- excess capacity pressures have emerged, and are getting worse, in regions that previously had strong steel demand and positive prospects for market growth, including Southeast Asia where foreign investment, particularly from China, supports capacity growth.

Based on this analysis, the commission considers that excess production capacity exists in the domestic markets of the subject countries.

9.4.4 Summary

The commission considers that should the measures expire, exports from the subject countries are likely to continue on the basis that:

- imports have been identified in respect of China, Korea and Taiwan in each year since the measures were continued in 2017
- while small in volume, imports have been observed from Malaysia in 4 of the last 5 years
- exporters maintain excess production capacity
- exporters have maintained distribution links to the Australian market.

The commission's analysis is at **Confidential Attachment 26**.

9.5 Will dumping and subsidisation continue or recur?

This chapter assesses the likelihood that, in the absence of measures, exporters will export HSS to Australia at dumped and subsidised prices.

In assessing the likelihood of whether dumping and subsidisation will continue or recur, the Manual outlines a number of relevant factors.

The Manual provides that the inquiry may gather facts relevant to whether dumping will resume, such as exporters' margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g., as a result of a review).⁷⁹

The commission's view is that the relevance of each factor will vary depending on the nature of the goods under examination and the market into which the goods are sold.⁸⁰ No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers are relevant to this inquiry.

⁷⁹ Manual, p.176

⁸⁰ Ibid.

9.5.1 Analysis of dumping and subsidisation within inquiry period

The table below reproduces the dumping and subsidy margins in Chapters 7 and 8:⁸¹

Country	Exporter	Dumping margin	Subsidy margin
China	Dalian Steelforce	9.4%	N/A
	Hengshui Jinghua (residual dumping margin)	9.4%	0.0%
	Tianjin Ruitong (residual dumping margin)	9.4%	8.4%
	All other exporters	30.4%	51.0%
Korea	Hi-Steel	-9.3%	N/A
	All other exporters	13.8%	
Malaysia	All other exporters	20.8%	N/A
Taiwan	Shin Yang	-0.7%	N/A
	Ta Fong	-1.9%	
	Tension Steel (residual dumping margin)	-0.8%	
	All other exporters	23.5%	

Table 20: Dumping and subsidy within the inquiry period

China

The commission found that dumped and subsidised goods were exported to Australia from China in the inquiry period.

The commission has examined the facts relevant to assessing the likelihood that these exporters will continue to export the goods at dumped and subsidised prices. The commission found that these exporters were dumping during the original investigation⁸², and in subsequent matters where variable factors have been reviewed.

On the basis of these exporters' prior and consistent behaviour in exporting goods at dumped (and for some exporters, subsidised) prices, and in the absence of evidence suggesting a change in that behaviour, the commission considers that dumping (and subsidisation) by these exporters would be likely to continue if the anti-dumping measures expired.

Korea - HiSteel

⁸¹ The margins set out this do not account for the possible application of a non-injurious price or 'double-count' adjustment. See chapters 10 and 11.5.

⁸² Tianjin Ruitong was covered under the 'all other exporter' rate.

HiSteel commenced exporting HSS to Australia in 2018 and since that time has achieved year on year growth in sales volumes and market share in the Australian market.

The commission has determined a dumping margin for HiSteel for the inquiry period of negative 9.3%. The commission previously verified HiSteel during REV 529. HiSteel had a dumping margin for the relevant review period of negative 6.2%.

Since commencing exports to Australia, HiSteel has been subject to a floor price. The commission analysed HiSteel's exportation history using data contained in the ABF import database. The commission observed that HiSteel's export prices have been consistently above its floor price. Of the number importations identified since HiSteel commenced exporting, HiSteel exported at prices below the floor price only approximately 4% of the time. The commission noted that the degree to which the floor price was breached was minor on each occasion, and in total the duty payable amounted to 0.04% of the total value of all exportations.

The commission's has also analysed HiSteel's pricing in the Australian market. The commission compared the landed duty free price of HiSteel's exports against the landed duty free prices for exports from India, the UAE and Vietnam, the lowest priced exports in the Australian market during the period of analysis. The commission identified that by the conclusion of the inquiry period HiSteel's prices were in fact lower than the weighted average prices from each of these sources. Further, the commission's price undercutting analysis identified that HiSteel sold HSS in Australia during the inquiry period at prices that undercut the Australian industry.

As HiSteel maintains a price advantage against low priced exports from countries not subject to measures, as well as Australian industry, and has steadily grown its sales volumes and market share with undumped prices, the commission does not consider that HiSteel would have reason to reduce its prices to dumped levels in order to export greater volumes to Australia.

Korea - All other exporters

The commission has determined a dumping margin for all other Korean exporters of 13.8%. In REV 529 the dumping margin for all other Korean exporters was 2.8%. Since the continuation of measures in 2017, these exporters have been subject to a combination duty method.

To further inform its consideration of whether dumping is likely to continue in respect of these exporters, the commission analysed the FOB export prices for these exporters against the two largest exporters of undumped goods from Korea, Kukje and HiSteel. The commission observed that, on a quarterly basis:

- the FOB export pricing for each of these exporters was at all times higher than the FOB export pricing for Kukje and/or HiSteel
- on a weighted average basis the FOB export pricing for these exporters was between 25% and 36% higher than the weighted average FOB export price of exports by Kukje and HiSteel, and on average across the inquiry period 30% higher.

The commission considers that in the absence of measures, other Korean exporters would have an incentive to reduce export prices to more effectively compete with the two largest Korean exporters. Any such reduction in price would likely result in the exported goods being dumped.

On the basis of:

- these exporters' prior behaviour in exporting goods at dumped prices
- the likely reduction in export prices for these exporters to better compete with the undumped prices of the largest Korean exporters

the commission considers that dumping by these exporters would be likely to continue if the anti-dumping measures expired.

Malaysia – All other exporters

The commission did not receive a REQ or any submissions from Malaysian exporters of the goods.

Austube Mills submitted that Malaysian exporters have historically altered their patterns of trade in response to the effectiveness of the measures in Australia. Austube Mills provided volume and pricing information in relation to Malaysian exports to New Zealand to argue that in the absence of measures, Malaysian exporters would likely recommence exporting to Australia, and at dumped prices.

Variable factors for Malaysian exporters were last determined in REV 529.

In REV 529, the commission considered that New Zealand represented an appropriate third country for its consideration of whether Malaysian exporters are likely to recommence exporting to Australia at dumped prices because:

- the New Zealand market is the most comparable to the Australian market in terms of conditions, domestic production, common importers and general customs import tariffs
- there is close geographical proximity between New Zealand and Australia, and it is reasonable to expect similar shipping costs
- the export quantity to New Zealand was the largest of the four countries to which Alpine Pipe exported the goods, complying with the standard AS/NZS 1163, and was also similar to the maximum volumes previously exported to Australia.

The commission considers that these factors continue to apply.

In the absence of information supplied by Malaysian exporters, the commission has calculated an export price and normal value using data from REV 529 and a timing adjustment. Chapter 7.6.1 details the commission's approach. The commission calculated a dumping margin of 20.8%.

Accordingly, in such circumstances the commission considers that those exports from Malaysian exporters would likely be at dumped prices.

Taiwan – Shin Yang

Shin Yang accounted for the approximately 98% of the export volume from Taiwan in the inquiry period. The commission has determined a preliminary dumping margin for Shin Yang of negative 0.7%. In the most recent review of measures the commission found Shin Yang to have a dumping margin of 0.5%.

The commission has examined Shin Yang's volume, export price and normal value trends during the inquiry period to inform its decision about the likelihood of Shin Yang exporting at dumped prices in the future. The figure below compares the relationship between these factors.

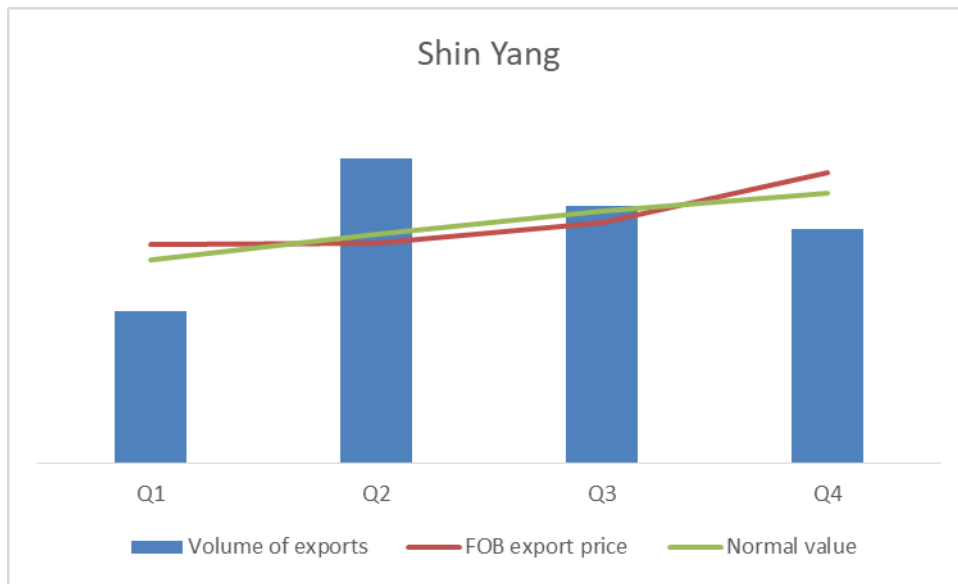


Figure 13: Shin Yang export volumes, price and normal value

Figure 13 indicates that Shin Yang:

- increased its FOB export price throughout the inquiry period, however, during Q2 and Q3 its normal value exceeded its FOB export price
- increased its FOB export price by over 20% in Q4, such that dumping was no longer evident
- experienced reducing sales volumes as its FOB export price increased after Q2.

The commission considers that while Shin Yang achieved a dumping margin of negative 0.7% for the duration of the inquiry period, dumping was evident for two quarters and a positive margin was only averted due to a significant increase in FOB export price in Q4.

To determine whether this increased export price is likely sustainable, the commission has compared in Figure 14 below Shin Yang's landed duty free price into the Australian market against other key participants in the market.

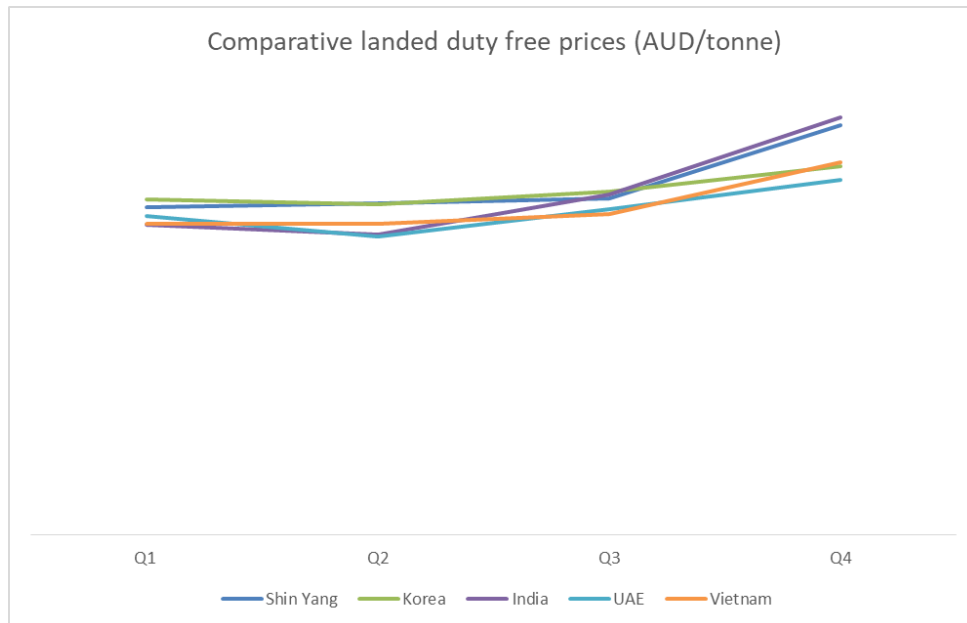


Figure 14: Shin Yang's landed duty free price

Figure 14 indicates that each export source identified tracked within a reasonably close banding until Q3. While Shin Yang was at the upper level of this banding during that time, in Q4 Shin Yang's prices have moved above those of Korea, UAE and Vietnam by approximately 10%.

Noting Shin Yang's reducing volumes as its export price increased, and its relatively uncompetitive pricing compared to other export offerings in the Australian market following those price increases, the commission considers that in the absence of measures Shin Yang would likely reduce its export price to regain price competitiveness and to maintain or expand volumes and market share.

Given the dumping margin ascertained for the inquiry period is marginally negative at negative 0.7%, the commission considers that any such reduction in price would likely result in the exported goods being dumped.

Taiwan – Ta Fong

Ta Fong accounted for the approximately 2% of the export volume from Taiwan in the inquiry period. The commission has determined a preliminary dumping margin for Ta Fong of negative 1.9%. In the most recent review of measures, the commission found Ta Fong to have a dumping margin of 4.3%.

The commission has examined Ta Fong's volume, export price and normal value trends during the inquiry period to inform its decision about the likelihood of Ta Fong exporting at dumped prices in the future. Figure 15 illustrates the relationship between these factors.

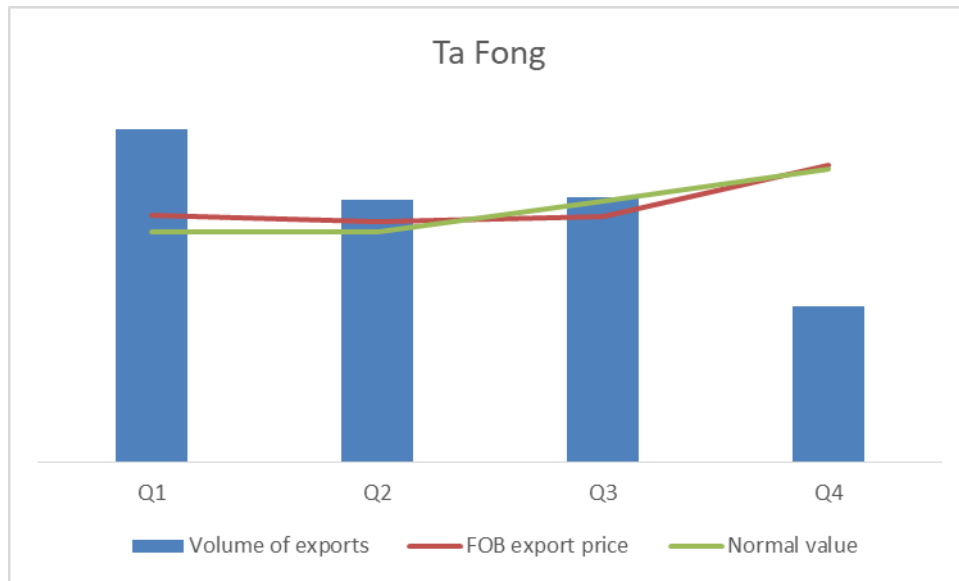


Figure 15: Ta Fong export volumes, price and normal value

Figure 15 indicates that Ta Fong:

- reduced its FOB export price throughout the first three quarters of the inquiry such that by Q3 its normal value exceeded its FOB export price
- increased its FOB export price by over 20% in Q4, such that dumping was no longer evident
- experienced reducing sales volumes as its FOB export price increased in Q4.

The commission considers that while Ta Fong achieved a dumping margin of negative 1.9% for the duration of the inquiry period, dumping was evident during the period, and a positive margin was only averted due to a significant increase in FOB export price in Q4.

To determine whether this increased export price is likely sustainable, the commission has compared, in Figure 16 below, Ta Fong's landed duty free price into the Australian market against other key participants in the market.

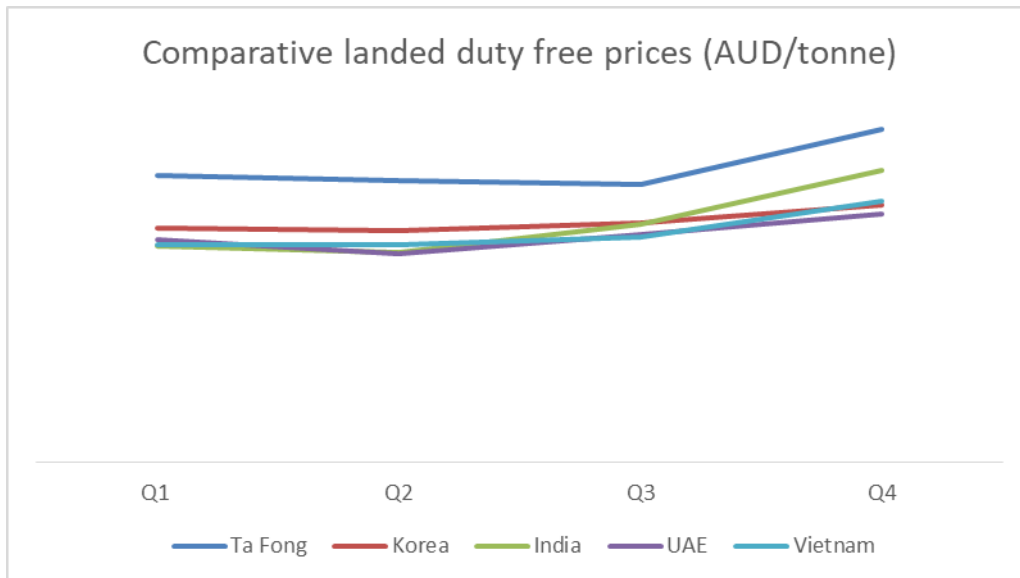


Figure 16: Ta Fong's landed duty free price

Figure 16 indicates that Ta Fong's exports were priced at a premium to each export source identified throughout the inquiry period.

The commission considers that in the absence of measures, Ta Fong would likely reduce its export price to regain price competitiveness and to maintain or expand volumes and market share, noting it's:

- small volume of exports into the Australian market relative to its export competition
- falling export volume in Q4 of the inquiry period as its export price increased
- relatively uncompetitive pricing compared to other export offerings in the Australian market.

Given the dumping margin ascertained for the inquiry period is marginally negative at minus 1.9%, the commission considers that any such reduction in price would likely result in the exported goods being dumped.

Taiwan – Residual and all other exporters

The commission has determined a dumping margin for residual exporters of negative 0.8%. In REV 529, the commission found residual exporters to have a dumping margin of 16.2%.

Tension Steel is the only residual Taiwanese exporter for the purposes of this inquiry. Tension Steel did not export the goods to Australia during the inquiry period.

The commission has determined a dumping margin for all other Taiwanese exporters of 23.5%.

As the dumping margins for the categories of residual exporters and all other exporters has been determined using information relevant to those exporters who cooperated with the review, and noting the commission's preliminary finding above that future exports of

the goods by those cooperating exporters are likely to be dumped, the commission considers that future exports of the goods by residual and all other exporters are also likely to be dumped.

9.5.2 Availability of other markets – impact of trade remedies in other jurisdictions

Austube Mills and Orrcon both detailed in their applications the extent of trade remedies applying to the goods in other jurisdictions (or comparable goods where the definitions of the goods vary from jurisdiction to jurisdiction). The commission has also considered trade remedies in other jurisdictions in previous inquiries, and notes that many of those measures continue to apply.

In addition there have been two significant developments in respect of global trade remedies relating to the goods since measures were last continued. In 2018, the USA imposed tariffs and quotas under section 232 of the *Trade Expansion Act of 1962* (USA). In 2021 the European Union extended safeguards measures on certain steel products for a further 3 years until 2024.

The commission considers that the application of trade remedies in other jurisdictions is a factor that influences global trade by altering comparative access to markets. The commission considers that the expiration of the measures may make Australian a comparatively more attractive and accessible market for exports from the subject countries given the prevalence of trade measures against those countries in other jurisdictions.

9.5.3 Summary

The commission considers the expiration of the current measures would be likely to lead to exporters from the subject countries reducing prices to compete with lower priced exports from other countries and therefore a continuation of, or a recurrence of, dumping and subsidisation by all exporters from China, Malaysia and Taiwan, and all exporters from Korea other than HiSteel.

The commission's analysis is at **Confidential Attachment 27**.

9.6 Will material injury continue or recur?

The commission considers that in the event the measures expire, exports from Korea (other than exports from HiSteel), Malaysia and Taiwan at dumped prices, and exports from China at dumped and subsidised prices are likely to continue or recur and that the injury that this may cause to the Australian industry is likely to be material.

The commission has therefore analysed the likely effect on price and volume in the event that the Minister does not secure the continuation of measures.

9.6.1 Likely effect on prices

The Australian produced goods and the imported goods have similar end uses, meet similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same markets. Previous inquiries and reviews of

measures by the commission indicate that the HSS market is a commodity market and that price is the major factor in customers' purchasing decisions.⁸³

To inform its consideration of the likely effect on prices, the commission has analysed:

- landed duty free prices of imports from the subject countries as well as from the three most significant sources not subject to measures, as measured by volume
- price undercutting within the Australian market during the inquiry period.

Landed duty free import prices

To inform its consideration of comparative pricing within the Australian market in the absence of measures, the commission has used ABF import data to compare the landed duty free import pricing during the inquiry period for China, Korea and Taiwan (Malaysia has been excluded from the analysis due to the small volumes imported during that time), as well as the three largest sources not subject to measures, being India, UAE and Vietnam. Together these imports account for 83% of the goods imported to Australia in FY 2021.

Figure 17 below demonstrates the comparative landed duty free import prices:

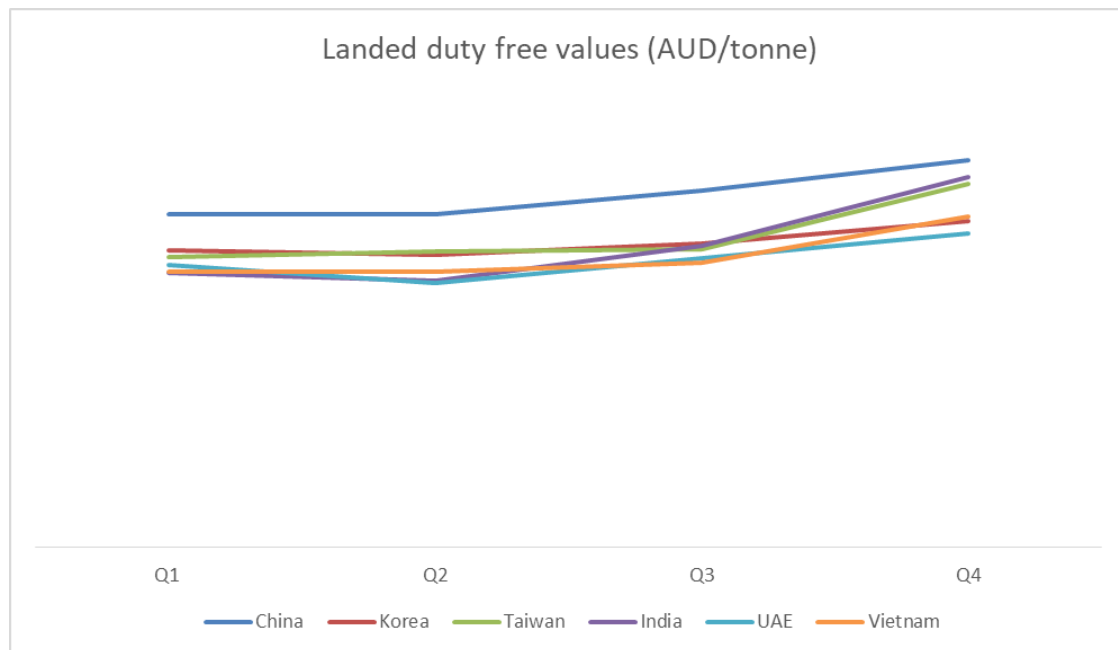


Figure 17: Landed duty free import pricing

Figure 17 indicates that landed duty free import prices for the goods imported from:

- Korea, Taiwan, India, the UAE and Vietnam during the period Q1 to Q3, moved within a reasonably close banding

⁸³ Investigation 177, 254 and 320, Reviews 265, 266, 529 and Continuations 379 and 532.

- all exporters increased in Q4, however Taiwan and India diverged due to a more significant escalation in price
- China have operated with a price premium throughout the inquiry period.

The commission also notes that, in the absence of measures, at all times during the inquiry period, goods from a country not subject to measures, or undumped goods exported from a country currently subject to measures, would have been the least expensive.

The commission considers that this analysis indicates that there is close price competition in the Australian market. The commission considers that in such a price sensitive market, the landed import prices of the goods imported from countries not subject to measures or undumped goods from the subject countries would influence the pricing of other market participants.

Price undercutting

The commission's price undercutting analysis⁸⁴ compares the prices at which the Australian industry sold like goods to the actual or estimated prices achieved by importers who sourced the goods from exporters subject to the current measures. Price undercutting occurs when imported goods are sold in the Australian market at a price below that of the Australian produced like goods. The commission's analysis provides information that aids in assessing the effect of dumped imports on the Australian industry's prices and whether this has caused, or is likely to cause, injury in the form of price depression and price suppression, amongst other potential injury factors.

The commission conducted a macro level analysis by comparing the weighted average quarterly selling prices of Australian industry against the prices achieved by importers at an MCC level. The commission identified the 5 most common MCCs sold by both Australian industry and exporters from the subject countries. These 5 MCC represented 73% of the total volume of Australian industry sales. The margins of undercutting by MCC are presented in the below. Where Australian industry was competing with exports from more than one of the subject countries, Table 21 identifies the highest level of undercutting between those competing exports:

	Q1	Q2	Q3	Q4
MCC 1	-1%	-1%	4%	-1%
MCC 2	7%	8%	13%	10%
MCC 3	14%	15%	17%	14%
MCC 4	8%	13%	10%	9%
MCC 5	2%	4%	6%	6%

Table 21: Price undercutting by MCC by quarter⁸⁵

⁸⁴ Confidential Attachment 35 – Price undercutting

⁸⁵ A negative number indicates export prices are higher than Australian industry prices.

Table 21 indicates that for MCCs 2 to 5, Australian industry has been undercut in all quarters, while for MCC 1 pricing between Australian industry and exports from the subject countries is much more closely aligned. The commission further notes that while the lowest priced export source for each MCC varied from quarter to quarter, the commission found exports from China, Korea and Taiwan all undercut Australian industry prices at an MCC level during the inquiry period.

The commission undertook further analysis at a micro level by comparing prices at a direct customer level. The commission used verified importer sales data to identify customers supplied by imported goods from the Korea and Taiwan who also purchased from Australian industry. The commission then matched that customer cohort to sales of goods exported from China. The commission observed that approximately 90% of the examined sales volume is sold to customers of Australian industry, and that these customers in turn account for approximately 35% of Australian industry's sales.

The commission compared quarterly weighted average free in to store (FIS) prices from each identified source for each customer for each of the MCCs evaluated above.

The commission observed that in every identified instance of direct competition between Australian industry and imports from Korea and Taiwan, the price of the imported product undercut the Australian industry price, with undercutting rates up to 19%.

In relation to exports from China, noting that Austube Mills is the importer, the commission confined its undercutting analysis to instances of competition between the goods exported from China and those sold by Orrcon. The commission identified that for 83% of the instances of direct competition observed, imported Chinese goods undercut Orrcon's price, with undercutting rates up to 28%.

Based on the above analysis, the commission is satisfied that, during the inquiry period:

- the Australian market for HSS was characterised by significant levels of direct competition between Australian industry and imports from multiple sources, both subject to measures and free of measures
- selling prices of the imported goods from the subject countries undercut Australian industry prices at both an MCC and direct customer level
- the landed duty free price of the goods not subject to measures, and undumped exports from Korea, were consistently the lowest in the market.

As such, the commission considers that if the measures were to expire, exporters from the subject countries would likely reduce prices to compete with the lower priced exports currently not subject to measures, and those in relation to which the Commissioner preliminarily recommends measures expire.

The commission considers it is reasonable to conclude that the Australian industry would respond to the lower price level of these imported goods previously subject to measures by reducing prices in order to remain competitive and maintain its sales volumes.

The commission is therefore satisfied that the expiration of the measures would be likely to lead to a recurrence of injury to the Australian industry in the form of price depression, as well as other factors related to price, including sales revenue, profit and profitability.

9.6.2 Likely effects on volumes

The commission has analysed the market share of the key market participants since FY10 to inform its consideration of the likely effect on volumes of the expiration of measures. Figure 18 below shows the change in market share for Australian industry, the countries currently subject to measures, and all other countries combined.

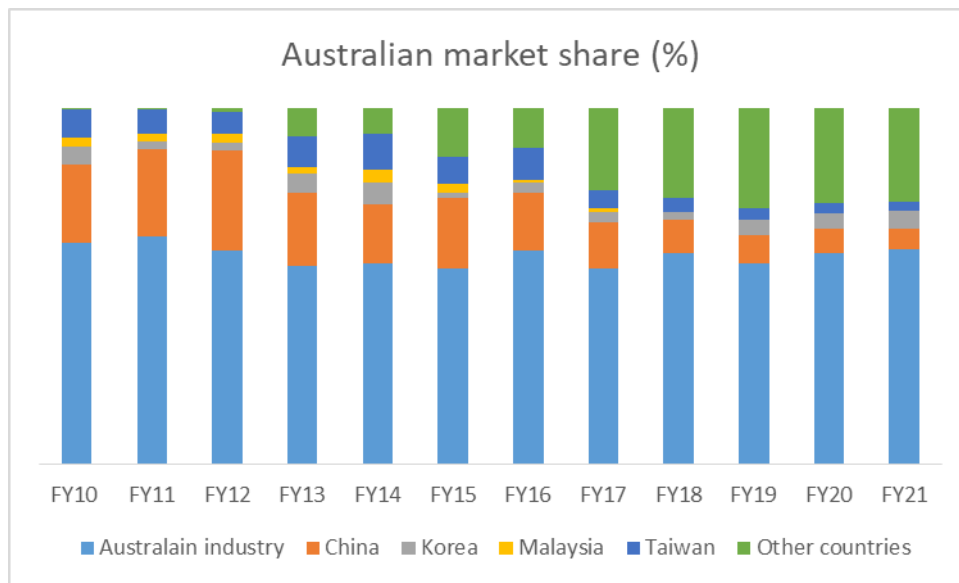


Figure 18: Change in Australian market share since FY10

Figure 18, and the underlying data supporting it, indicates that:

- prior to the imposition of measures in 2012, Australian industry and exports from the subject countries accounted for 99% of the Australian market
- at their respective peaks, exports from China accounted for 28% of the Australian market, Korea 6%, Malaysia 4% and Taiwan 10%
- the imposition of measures commenced a sustained period of erosion in market share for each of the subject countries
- the market share of the subject countries largely transferred to exporters from other countries who were able to capitalise on lower export prices to capture those contested sales volumes
- following the imposition of measures against the subject countries Australian industry's market share has fluctuated within a 5% range.

The commission considers that the imposition of measures on the subject countries has been effective in limiting the injury to Australian industry caused by those dumped and subsidised exports, but has provided opportunities for exporters of lower priced goods from other countries to build market share by undercutting the prices of both Australian industry and exporters of the goods from the subject countries.

The commission also notes that during the inquiry period the total market share of the subject countries (and other countries) declined, despite an increase in the volume of goods exported from those sources. As previously detailed in chapter 5.3.5, the Australian market experienced some growth during the inquiry period. Australian industry was able to capture a slightly larger proportional share of that growth compared to imports, leading to a slight increase in market share. Despite the subject countries and other countries achieving volume growth, this did not translate to increased market share. The commission considers that had supply chains not been disrupted during the inquiry period, export volumes from the subject countries and other countries would likely have been higher. As supply chains stabilise, the gains in volume and market share achieved by Australian industry during the inquiry period will be vulnerable to competition from exports as a result of a likely increase in shipping volumes.

As discussed above, in the absence of measures the commission considers it likely that those exporters currently subject to measures would reduce prices to compete with the lower priced exports from other countries. The commission considers it also likely, in the event that Australian industry is unable to reduce prices in line with the reduced prices of exports from the subject countries, that Australian industry would cede market share, noting that:

- exports from other countries have established a large and stable share of the Australian market, particularly evident since FY17
- exports from other countries already operate at a significant discount to the locally manufactured goods
- exporters from the subject countries have long standing relationships and distribution channels into the Australian market, and have previously held significant shares of the Australian market.

This in turn would lead to a reduction in sales volume.

The commission is therefore satisfied that the expiration of the measures would be likely to lead to a recurrence of injury to the Australian industry in the form of reduced sales volume and market share, as well as other factors related to volume injury, such as profit, profitability and capacity utilisation.

9.6.3 Is injury from dumping and subsidisation likely to be material?

Notwithstanding the acknowledgement that other factors are likely to influence the economic condition of the Australian industry if the measures expire, the *Ministerial Direction on Material Injury 2012* (the Direction) provides that injury from dumping and subsidisation need not be the sole cause of injury to the industry, where injury caused by dumping and subsidisation is material in degree.⁸⁶

The Direction further provides that the materiality of injury caused by a given degree of dumping or subsidisation can be judged differently, depending on the economic condition

⁸⁶ ADN No. 2021/024 refers

of the Australian industry suffering the injury. In considering the circumstances of each case, the commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping or subsidisation.

The commission's analysis of the economic condition of the Australian industry in the inquiry period and in the period since measures were last continued found that the Australian industry has exhibited mixed results.

As detailed in chapters 5 and 6, the Australian market for HSS expanded by more than 20% during the inquiry period. Significant direct and indirect government stimulus aimed at the construction industry as well as increased consumer spending on home improvements fuelled this growth. This boost in demand coincided with longer shipping times and significantly increased costs of shipping, which impacted international supply into the Australian market.

These anomalous supply and demand conditions proved advantageous to Australian industry which was able to harness surplus capacity to meet growing demand at a time when competitors' international supply channels were disrupted. The commission considers that the future condition of the Australian market and Australian industry must be considered within the context of the impacts of the pandemic during the inquiry period.

While the economic uncertainty driven by the COVID-19 pandemic is likely to continue in the short term, the commission does not consider that the growth in the Australian market experienced during the inquiry period is likely to be replicated on an ongoing basis. The commission has analysed the growth in the Australian market since 2010, as demonstrated in the figure below, to inform its understanding.

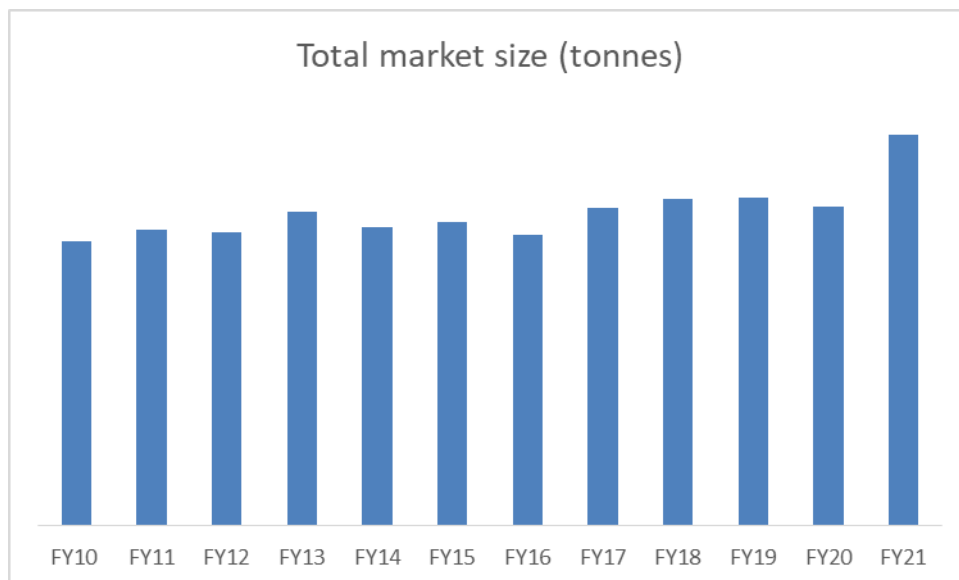


Figure 19: Growth in the Australian market

Figure 19, and the underlying data supporting it, indicates that:

- the Australian market has trended upward since FY10, despite year to year variability associated with the business cycle
- the average compounding rate of growth during the period FY10 to FY20 was 1.2%
- the rate of growth during the inquiry period of FY21 was 23%
- the previous highest yearly rate of growth was 9% in FY17.

The commission considers that the growth in the Australian market during the inquiry period was anomalous when assessed against the longer term trend. The commission expects that as the impacts associated with the pandemic recede, the Australian market will return to more normalised conditions, characterised by gradual growth over the long term, within the context of the shorter time variability inherent to the business cycle (i.e. variance within shorter time periods).

In addition to the opportunities afforded by a growing market, Australian industry benefitted during the inquiry period due to disruptions to global supply chains. The contraction in shipping availability combined with increasing costs of international shipping adversely impacted overseas exporters, opening up opportunities for domestic suppliers to capture additional sales volumes and market share. The commission considers that had supply chains not been disrupted during the inquiry period, export volumes from the subject countries would likely have been higher. As supply chains stabilise the gains in volume and market share achieved by Australian industry during the inquiry period will be vulnerable to competition from exports.

Orrcon submitted that freight rates have peaked, supply chain bottlenecks will likely resolve and freight costs will normalise. Orrcon provided its own analysis of seaborne freight in support of its submission. The commission's research indicates that there are variations between forecasters for freight rates in the short term.⁸⁷

The commission has considered the longer term trend for freight costs. The figure below from the ACCC Container Stevedoring Monitoring Report⁸⁸ shows container freight rates from 2017 to 2021.

⁸⁷ <https://blogs.imf.org/2022/01/13/global-shipping-costs-are-moderating-but-pressures-remain/>
<https://www.freightwaves.com/news/container-shippings-2022-outlook-the-bulls-bears-and-wild-cards>
<https://www.shiphub.co/freight-rate-forecast-2022/>

⁸⁸ *ACCC Container stevedoring monitoring report 2020-21*, op. cit. footnote 48, p. xiv.

S&P Global Platts container index (US\$/FEU): August 2017 to September 2021

**Figure 20: S&P Global Platts Container Index (US\$/FEU): August 2017 to September 2021**

Figure 20 shows reasonably stable shipping prices from 2017 until 2020, followed by a surge coinciding with the pandemic. The ACCC Report concluded that *'the container industry will eventually recover from the COVID-19 pandemic. Operation of the global supply chain will likely be restored, and global freight rates will subside'*.⁸⁹ The commission expects that in the medium to long term freight costs will return to lower levels than those seen during the inquiry period. Similarly, this rebalancing will likely address issues of port congestion and container movements, such that in time, export supply will be as cost effective and timely as had previously been the case.

As detailed in chapter 6, the commission considers that the improvements in the economic condition of the Australian industry during the inquiry period need to be considered within the context of the favourable trading conditions resulting from the COVID-19 pandemic. The commission considers the Australian industry remains susceptible to injury from dumping and subsidisation as those favourable conditions evident during the inquiry period likely dissipate over coming years.

To evaluate the materiality of price injury if measures were to expire, the commission has had regard to the landed export prices detailed in Figure 17. The commission considers it is reasonable to conclude that the Australian industry would respond to the lower price level of imported goods previously subject to measures by reducing prices in order to remain competitive and maintain its sales volumes against those exporters.

As detailed in chapter 9.6.1 above (price effects), the commission identified a significant overlap in common customers between Australian industry and the imported goods. The commission considers that given the existing market share of imports from the subject countries in the Australian market, and the penetration of those imports across Australian industry's customer base, the price reductions required of Australian industry to remain

⁸⁹ Ibid, p. xxii.

competitive in the absence of measures would extrapolate into material reductions in revenue, profit and profitability. A deterioration in these factors is likely to worsen the Australian industry's economic condition in relation to the other economic factors (see chapter 6.6) that are in part a function of price and profit.

The commission has also considered the alternative scenario where the Australian industry elects not to effect a price reduction in order to compete with the landed duty free prices detailed in Figure 17. As detailed in chapter 9.6.2 above, the commission considers that in the absence of measures it is likely that Australian industry would cede market share to exporters from the countries currently subject to measures.

The commission estimates, based on market size and average selling prices, that during the inquiry period the Australian market for HSS was worth over \$1 billion. As such, each 1% of market share represents approximately \$10 million in revenue. At this scale, small movements in market share can be materially injurious. The commission notes that:

- at the time of imposition of measures in 2012, exporters from China, Korea, Malaysia and Taiwan held approximately 39% of the Australian market
- at the time of the continuation of measures in 2017, exporters from China, Korea, Malaysia and Taiwan held approximately 22% of the Australian market.

During the inquiry period these exporters held approximately 14% of the Australian market. Should those exporters recapture some of the market share held prior to the continuation of measures in 2017, the Australian industry would experience a material level of injury by way of lost revenue, and the subsequent impact on profit and profitability.

Based on the preceding analysis of the likely effect on price and volume in the absence of measures, the commission considers that the continuation or recurrence of dumped exports from China, Korea, Malaysia and Taiwan would put downward pressure on prices in the Australian market. As a consequence Australian industry would likely experience price depression and/or a material erosion in the improvements made since the measures were continued in relation to sales volumes, market share, sales revenue, profit and profitability.

Accordingly, the commission considers that the expiration of the anti-dumping measures as they relate to exporters from the subject countries would be likely to lead to a continuation of, or a recurrence of, the material injury that the current measures are intended to prevent.

9.7 Conclusion

Taking the above analysis into account, the Commissioner is satisfied that there is sufficient evidence to support a finding that exports of HSS from China, Korea, Malaysia and Taiwan are likely to continue (or recur, in the case of Malaysia), and in the absence of anti-dumping measures, may increase.

The Commissioner is satisfied that, in relation to exporters from China, Korea (other than HiSteel), Malaysia and Taiwan:

PUBLIC RECORD

- exports of HSS at dumped and subsidised prices are likely to continue or recur
- material injury to the Australian industry is likely to be caused by future exports at dumped and subsidised prices in the absence of the measures.

As a result, the Commissioner is satisfied that the expiration of the measures as they relate to exporters from China, Korea (other than HiSteel), Malaysia and Taiwan would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

The Commissioner is not satisfied, in relation to HiSteel, that there is sufficient evidence to support a finding that exports of HSS at dumped prices are likely to continue or recur.

The Commissioner accepts that, should the measures expire, it is possible that HiSteel may export HSS to Australia at dumped prices and materially injure the Australian industry. However, the Commissioner is not satisfied on the evidence that this is *likely*.

As a result, the Commissioner is not satisfied that the expiration of the measures as they relate to HiSteel, would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

10 NON-INJURIOUS PRICE

10.1 Preliminary assessment of the non-injurious price

The NIP is relevant to the Minister's consideration of whether to apply a lesser amount of duty (lesser duty rule).

Section 269TACA defines the NIP as 'the minimum price necessary to prevent the injury, or a recurrence of the injury' caused by the dumped or subsidised goods, the subject of a dumping duty notice or a countervailing duty notice. The commission will generally derive the NIP from the Australian industry's unsuppressed selling price (USP).

10.2 Legislative framework

Where the Minister is required to determine the IDD, section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) applies. Where the Minister is required to determine both ICD and IDD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

Sections 8(5B), 8(5BA) and 10(3D) require the Minister to have regard to the 'lesser duty rule' when determining the ICD and IDD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. In respect of concurrent dumping and countervailing notices, the lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty such that the sum of the export price (of the goods ascertained for the purposes of the notices), the ICD and the IDD, do not exceed the NIP.

However, pursuant to sections 8(5BAA), 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances (exceptions) apply:⁹⁰

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii)
- there is an Australian industry in respect of like goods that consists of at least 2 small-medium enterprises, whether or not that industry consists of other enterprises⁹¹
- if an exporter of the goods has received a countervailing subsidy in respect of the goods – the exporter's country has not complied with Article 25 of the World Trade Organization (WTO) Agreement on Subsidies and Countervailing for the compliance period.

⁹⁰ Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty and sections 10(3DA)(a) to (c) of the Dumping Duty Act concern the calculation of countervailing duty.

⁹¹ As defined in the Customs (Definition of 'small-medium enterprise') Determination 2013.

Where any of the above exceptions apply, the Minister is not required to have mandatory consideration of the lesser duty rule, but may still wish to exercise a discretion to do so.

10.3 Lesser duty rule exceptions

The commission considers that an exception to the lesser duty rule applies in relation to Dalian Steelforce's exports because the commission did not ascertain Dalian Steelforce's normal value under section 269TAC(1) due to the operation of section 269TAC(2)(a)(ii).

For all other exporters subject to the anti-dumping measures, the commission does not consider that any of the exceptions in the Dumping Duty Act apply because:

- the operation of section 269TAC(2)(a)(ii) did not prevent the normal value from being ascertained under section 269TAC(1)
- China, Korea, Malaysia and Taiwan has complied with Article 25 of the SCM Agreement
- the Australian industry does not consist of at least 2 small-medium enterprises.

On the basis that no exceptions apply, the Commissioner recommends that the Minister consider the desirability of applying the lesser duty rule for all exporters subject to the anti-dumping measures, except Dalian Steelforce.

10.4 Unsuppressed selling price

The legislation does not prescribe a method of calculating a NIP, but there are several methods outlined in the Manual.⁹² 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 commission refers to this price as the USP.

The Manual provides that the commission will normally use the following approaches, in order of preference, for establishing a USP, subject to the facts of the case:

- Australian industry's selling prices in a period unaffected by dumping
- the constructed approach, using the Australian industry's CTMS plus a reasonable amount for profit
- selling prices of undumped imports in the Australian market.

Anti-dumping measures have been in place for the goods since 2012 and as set out in chapter 7, the commission has preliminarily determined that dumping has continued. The commission considers Australian industry prices from before this time are too dated to be an accurate representation of contemporary Australian industry prices in a market unaffected by dumping.

The commission further considers that the presence of significant volumes of dumped imports in the Australian market affects the pricing of undumped imports. Therefore,

⁹² The Manual, p 138.

consistent with the approach taken in the most recent review REV 529, the commission has established a USP using the constructed approach, having regard to:

- the weighted average CTMS for Australian industry members in the inquiry period
- a reasonable amount for profit.

The commission has calculated a CTMS for Australian industry using verified data provided by Austube Mills and Orrcon as follows:

- quarterly CTMS data provided by each industry member for various HSS types was used to determine a weighted average quarterly CTMS for all domestically produced HSS for both Austube Mills and Orrcon for the inquiry period
- the commission chose the highest CTMS value. This is because the commission considers a lower value USP might not reasonably represent a price that an Australian industry member with a higher CTMS sells its product in a market unaffected by dumping. As the NIP is determined using the USP, a lower valued USP may result in a NIP below the minimum price necessary to prevent the injury, or a recurrence of the injury to the Australian industry member with the higher CTMS.

In determining an amount of profit, the commission notes:

- it is unlikely that recent growth in the Australian market related to the COVID-19 pandemic will continue
- any profit rate for Australian industry from recent years (pre-pandemic) is affected by the presence of dumping, including in respect of similar categories of goods (for example, precision pipe and steel tube).

Accordingly, the commission considers that the most appropriate source to determine an amount of profit is from its previous examination of this issue in REV 529.

REV 529 looked at data from the period 1 October 2018 to 30 September 2019, which is a 12-month period shortly before the COVID-19 pandemic. In REV 529, the commission was satisfied that price lists and target revenues it examined were set at the start of the financial year which the Australian industry reasonably expected to achieve at the time. The commission considers such targets have regard to a desired overall profitability, with return on investment, research and development expenditure and capital works factored in. These goals were not set by reference to the prices that were subsequently achieved in the market, which were affected by dumping.

10.5 Non-injurious price

The Commissioner has calculated a NIP by deducting from the USP the costs incurred in getting the goods from an export FOB point in each subject country to the relevant level of trade in Australia. The deductions include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

The commission's NIP calculation is at **Confidential Attachment 28**.

10.6 Commission's assessment

10.6.1 Chinese exporters

The commission has assessed that the calculated NIP for all Chinese exporters (except Dalian Steelforce, Hengshui Jinghua and Tianjin Ruitong) is less than the sum of:

- the export price ascertained for the goods
- the IDD payable on the goods
- the ICD payable on the goods (where applicable).

The commission does not consider that any of the exceptions in the Dumping Duty Act apply in respect of exports of the goods from China (other than by Dalian Steelforce) because:

- the commission has determined the normal value for these exporters pursuant to section 269TACAB(2)(d)⁹³ and 269TAC(6)⁹⁴ (see chapter 7.4), which was not due to the operation of 269TAC(2)(a)(ii)
- China has complied with Article 25 of the SCM Agreement
- the Australian industry does not consist of at least 2 small-medium enterprises.

On the basis that no exceptions apply, the Commissioner recommends that the Minister consider the desirability of applying the lesser duty rule to all Chinese exporters (except Dalian Steelforce, Hengshui Jinghua and Tianjin Ruitong).

The Commissioner does not recommend the Minister consider the desirability of applying the lesser duty rule to Dalian Steelforce, Hengshui Jinghua and Tianjin Ruitong because the commission has assessed the NIP as greater than the sum of the following:

- the export price ascertained for the goods
- the IDD payable on the goods
- the ICD payable on the goods (where applicable).

10.6.2 All other exporters

The commission has assessed that the calculated NIP for all Korean, Malaysian and Taiwanese exporters is greater than the sum of the following:

- the export price ascertained for the goods
- the IDD payable on the goods.

⁹³ Section 269TACAB(2)(d) sets out that if the normal value of goods for a residual exporter is to be worked out in relation to an inquiry, that normal value is to be worked out under section 269TAC(6).

⁹⁴ Section 269TACAB(1)(e) sets out that if the normal value of goods for an uncooperative exporter is to be worked out in relation to an inquiry, that normal value must not exceed the weighted average of normal values for like goods of cooperative exporters from the same country of export..

Therefore, a lesser amount of duty is not necessary.

11 PROPOSED RECOMMENDATIONS AND MEASURES

11.1 Preliminary recommendations

Having established that dumping, subsidisation and material injury is likely to continue or recur if the anti-dumping measures expire (except in respect of exports by HiSteel), the Commissioner proposes to recommend that the Minister secure the continuation of the anti-dumping measures applying to the goods exported to Australia from China, Korea (except HiSteel), Malaysia and Taiwan.

Based on the information available at this stage of the inquiry, the Commissioner proposes to recommend that, in continuing the dumping duty notice and the countervailing duty notice:

- in relation to Dalian Steelforce from China, the dumping duty notice is altered to reflect the change in variable factors for its exports of the goods in the inquiry period
- in relation to Hengshui Jinghua and Tianjin Ruitong from China, the dumping duty and countervailing duty notices are altered to reflect the change in variable factors for their exports of the goods in the inquiry period
- in relation to all other exporters from China (except Huludao), the dumping duty and countervailing duty notices are altered to reflect the change in variable factors for their exports of the goods in the inquiry period
- in relation to Huludao, the dumping duty notice is altered to reflect the change in variable factors for its exports of the goods in the inquiry period, reflecting its change in status to an uncooperative exporter⁹⁵
- the dumping duty notice ceases to apply to HiSteel from Korea
- in relation to all other exporters from Korea (except Kukje), the dumping duty notice is altered to reflect the change in variable factors for their exports of the goods in the inquiry period⁹⁶
- in relation to all other exporters from Malaysia, the dumping duty notice is altered to reflect the change in variable factors for their exports of the goods in the inquiry period
- in relation to Shin Yang, Ta Fong and Tension Steel from Taiwan, the dumping duty notice is altered to reflect the change in variable factors for their exports of the goods in the inquiry period
- in relation to all other exporters from Taiwan, the dumping duty notice is altered to reflect the change in variable factors for their exports of the goods in the inquiry period
- the method for working out the amount of IDD on exports of the goods from China, Korea (except HiSteel and Kukje), Malaysia and Taiwan (except Shin Yang, Ta Fong and Tension Steel) continues to utilise the combination of fixed and variable duty method

⁹⁵ Huludao is not subject to countervailing duty on the goods

⁹⁶ Kukje is not subject to anti-dumping measures on the goods

- the method for working out the amount of IDD on exports of the goods from Shin Yang, Ta Fong and Tension Steel be altered to the floor price method
- the method for working out the amount of ICD on exports of the goods from China (except Dalian Steelforce and Huludao) continues to be calculated using the *ad valorem* method.

11.2 Current interim dumping and interim countervailing duty method

The method for calculating IDD applicable to exporters from the subject countries (except for Kukje and HiSteel) is currently the combination of fixed and variable duty method. Kukje is exempt from IDD and the method for calculating IDD applicable to HiSteel is the floor price method.

The method for calculating ICD applying to exports of the goods by Chinese exporters, except Dalian Steelforce and Huludao (who are exempt from ICD) is currently the proportion of the export price method.

11.3 Interim dumping duty methods available

The *Customs Tariff (Anti-Dumping) Regulation 2013* prescribes the forms of IDD methods available to the Minister when imposing anti-dumping measures. They include:

- 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).⁹⁷

The various duty methods all have the purpose of removing the injurious effects of dumping and/or subsidisation. However, in achieving this purpose, certain duty methods will better suit particular circumstances. When considering which duty method to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines) and relevant factors in the market for the goods.⁹⁸

11.4 Interim countervailing duty methods available

In relation to ICD, which is payable in respect of HSS exported by all exporters from China except Dalian Steelforce and Huludao, the ICD may be calculated:

- as a proportion of the export price of the goods ('*ad valorem*')
- by reference to a measure of the quantity of those particular goods
- by reference to a combination of the above two methods.

⁹⁷ Section 5 of the Customs Tariff (Anti- Dumping) Regulation 2013

⁹⁸ Available on the commission website.

11.5 Avoidance of ‘double-counting’

The commission has found that a number of Chinese entities received countervailable subsidies under Program 20 - *Hot rolled coil provided by government at less than fair market value*. Chapter 8 discusses this issue. When there is both an adjustment to raw material costs as part of constructing a normal value and a countervailable LTAR subsidy (such as Program 20), the commission will generally ‘back out’ the relevant subsidy from the dumping margin in order to avoid any double counting.

Part 20.3 of the Manual provides:

The Commission may decide to construct normal value for the goods in question under section 269TAC(2)(c) in certain circumstances. In some of these circumstances, the cost of an input may not reasonably reflect competitive market costs and therefore an adjustment to that input cost is made in constructing normal value. Where that input was also the subject of a less than adequate remuneration subsidy finding, it is necessary to ‘back out’ the relevant subsidy from the dumping margin in order to avoid any double counting⁹⁹

As Program 20 is in respect of HRC provided at LTAR and the commission has adjusted HRC as a cost input in constructing the normal value for Chinese exporters, the dumping margin calculations already address the impact of Program 20 on Chinese exporters’ costs.

To avoid this double counting, it is necessary for the commission to ‘back-out’ the Program 20 subsidy from one of the duplicative counts. The usual practice of the commission to give effect to avoiding a double count is to deduct the LTAR subsidy margin from the dumping margin, as outlined in the Manual.

The table below gives a summary of the resultant interim duty rates.

⁹⁹ The commission notes the WTO Appellate Body’s comments in DS379, that ‘double remedies’ are inconsistent with the requirement in Article 19.3 of the Subsidies and Countervailing Measures Agreement.

Country	Exporter	Dumping margin	Subsidy margin	Combined rate with Program 20 included	Effective dumping rate of with Program 20 backed-out	Combined rate with Program 20 backed-out	Combined rate with Program 20 backed-out applying NIP
China	Dalian Steelforce	9.4%	N/A	9.4%	9.4%	9.4%	9.4%
	Hengshui Jinghua ¹⁰⁰	9.4%	0.0%	9.4%	9.4%	9.4%	9.4%
	Tianjin Ruitong	9.4%	8.4%	17.8%	1.0%	9.4%	9.4%
	Huludao ¹⁰¹	30.4%	N/A	30.4%	30.4%	30.4%	30.4%
	All other exporters	30.4%	51.0%	81.4%	22.0%	73.0%	48.3%

Table 22: Interim duty rates, taking into account Program 20 and NIP

11.6 Conclusion

11.6.1 Interim dumping duty method

The commission considers that the combination duty method continues to be the most appropriate duty method in the current circumstances for exporters that have been found to be dumping.

In addition, the commission notes that there are complex company structures with related parties that exist between some exporters and importers. As indicated in the Guidelines, the combination duty method lends itself to these circumstances.¹⁰²

In respect of exports from Taiwan by Shin Yang, Ta Fong and Tension Steel, noting the negative dumping margins during the inquiry period, the commission considers that the floor price duty method is the most appropriate duty method.

As the Commissioner recommends having the measures against HiSteel cease to apply, no duty method is applicable.

¹⁰⁰ Residual exporter IDD rate

¹⁰¹ Huludao is classed as an uncooperative exporter for the purposes of IDD and is exempt from ICD.

¹⁰² Guidelines, p. 4.

11.6.2 Interim countervailing duty method

Currently, ICD is calculated as a proportion of the export price ('*ad valorem*'). The commission considers it appropriate to continue to calculate the ICD payable by reference to the *ad valorem* method.

11.6.3 Summary

A summary of the commission's proposed recommendations and effective rates of IDD and ICD is in the table below.

Country	Exporter	IDD		ICD	Combined rate
		Proposed duty method	Effective IDD rate	<i>Ad valorem</i>	
China	Dalian Steelforce	Combination	9.4%	N/A	9.4%
	Hengshui Jinghua ¹⁰³		9.4%	0.0% ¹⁰⁴	9.4%
	Tianjin Ruitong ¹⁰⁵		1.0%	8.4%	9.4%
	Huludao ¹⁰⁶		30.4%	N/A	30.4%
	All other exporters		22.0%	26.3% ¹⁰⁷	48.3%
Korea	Hi-Steel	None	N/A	N/A	N/A
	All other exporters	Combination	13.8%		13.8%
Malaysia	All other exporters	Combination	20.8%		20.8%
Taiwan	Shin Yang	Floor price	0.0%		0.0%
	Ta Fong	Floor price	0.0%		0.0%
	Residual exporters (Tension Steel)	Floor price	0.0%		0.0%
	All other exporters	Combination	23.5%		23.5%

Table 23: Summary of proposed effective interim dumping and countervailing duty

¹⁰³ Residual exporter IDD rate. See chapter 7.4.2.

¹⁰⁴ The commission found that Hengshui Jinghua received countervailable subsidies in respect of the goods which rounds to 0.0% at one decimal place.

¹⁰⁵ Tianjin Ruitong has been found to be dumping at a residual rate of 9.4%, but the dumping margin has been adjusted to avoid a 'double-count'. See chapter 11.5

¹⁰⁶ Huludao is classed as an uncooperative exporter for the purposes of IDD and is exempt from ICD.

¹⁰⁷ NIP is operative. See chapter 10.6.2.

APPENDICES AND ATTACHMENTS

Non-confidential Appendix A	Assessment of particular market situation
Non-confidential Appendix B	Proper comparison of domestic and export prices
Non-confidential Appendix C	Constructed Normal Values
Non-confidential Appendix D	Assessment of alleged subsidy programs
Confidential Attachment 1	Australian market
Confidential Attachment 2	Economic condition of industry
Confidential Attachment 3	Dalian Steelforce – Export Price
Confidential Attachment 4	Dalian Steelforce – Deductive Export Price
Confidential Attachment 5	Dalian Steelforce – CTMS
Confidential Attachment 6	Dalian Steelforce – Normal Value
Confidential Attachment 7	Dalian Steelforce – Dumping Margin
Confidential Attachment 8	Residual exporters Dumping Margin
Confidential Attachment 9	All other exporters dumping margin calculation
Confidential Attachment 10	HiSteel – Export Price
Confidential Attachment 11	HiSteel – CTMS
Confidential Attachment 12	HiSteel – Normal Value
Confidential Attachment 13	HiSteel – Dumping Margin
Confidential Attachment 14	Malaysian Dumping Margin Calculation
Confidential Attachment 15	Shin Yang – Export Price
Confidential Attachment 16	Shin Yang – CTMS
Confidential Attachment 17	Shin Yang – Normal Value
Confidential Attachment 18	Shin Yang – Dumping Margin
Confidential Attachment 19	Ta Fong – Export Price
Confidential Attachment 20	Ta Fong – CTMS
Confidential Attachment 21	Ta Fong – Normal Value
Confidential Attachment 22	Ta Fong – Dumping Margin
Confidential Attachment 23	Tianjin Ruitong – Subsidy Margin
Confidential Attachment 24	Hengshui Jinghua – Subsidy Margin
Confidential Attachment 25	Chinese non-cooperative entity subsidy margin
Confidential Attachment 26	Will exports continue
Confidential Attachment 27	Will dumping continue

PUBLIC RECORD

Confidential Attachment 28	NIP calculation and LDR
Confidential Attachment 29	HRC price analysis
Confidential Attachment 30	Raw material benchmark calculation
Confidential Attachment 31	CTM analysis
Confidential Attachment 32	Currency fluctuation analysis
Confidential Attachment 33	Raw materials MEPS analysis
Confidential Attachment 34	China export price analysis
Confidential Attachment 35	Price undercutting

APPENDIX A ASSESSMENT OF PARTICULAR MARKET SITUATION IN CHINA

A1 Introduction

Having regard to all available information, the commission's view is that a particular market situation exists in respect of the domestic market for hollow structural sections in China. The particular market situation renders sales in that market unsuitable for use in determining a price that would permit proper comparison with the export price in determining the margin of dumping.

A2 Australian legislation, policy and practice

Australia treats China as a market economy for anti-dumping purposes, and the commission conducted this inquiry in the same manner for China as it does for other market economy members of the WTO.

Irrespective of the country whose products are the subject of inquiry, the Australian anti-dumping framework allows for rejection of domestic selling prices as the basis for normal values where there is a 'particular market situation'. This is only if the particular market situation renders sales in that market unsuitable for use in determining a price that would permit proper comparison with the export price in determining the margin of dumping.

A2.1 Legislation

Section 269TAC(2)(a)(ii) implements, in part, Article 2.2 of the ADA:

When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country [footnote omitted], such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

Where a particular market situation is found to exist in the domestic market of the exporting country, pursuant to section 269TAC(2)(a)(ii), the commission must further consider whether, because of that situation, sales in that market are unsuitable for determining a price under section 269TAC(1) that would permit a proper comparison with the export price in determining the margin of dumping.

Where the commission determines that because of the particular market situation, such that domestic sales are unsuitable for determining a price under section 269TAC(1), normal values may instead be constructed under section 269TAC(2)(c) or determined by reference to prices from a third country under section 269TAC(2)(d).

A2.2 Policy and practice

The Act does not define or prescribe what is required to reach a finding of a particular market situation. A particular market situation will arise when there is some factor or factors affecting the relevant market in the country of export generally. When considering whether a particular market situation renders sales unsuitable for use in determining a normal value under section 269TAC(1), the commission may consider factors such as whether:

- government intervention in the industry and/or market of the exporting country results in prices that are lower than it would otherwise be absent the particular market situation
- there are other conditions in the market that render sales in that market unsuitable for use in determining prices under section 269TAC(1).

The Manual provides further guidance on the circumstances in which the commission will find that a particular market situation exists.¹⁰⁸

A3 Assessing particular market situation in this inquiry

The commission has assessed whether a particular market situation exists in relation to the Chinese HSS market in the inquiry period and whether such a particular market situation affects domestic sales in China in a manner that renders them unsuitable for determining a normal value for cooperative exporters under section 269TAC(1).

In assessing whether a particular market situation exists due to government influence, the commission has assessed whether government involvement in the domestic market has distorted market conditions in a manner that is not insignificant. If government influence has distorted market conditions in a manner that is not insignificant, then domestic prices may be lower or not substantially the same as they would be in a market free of the particular market situation.

Prices for the like goods may also be lower or not substantially the same as they would otherwise be due to the influence of the particular market situation on the costs of inputs. The commission assessed the effect of any such influence on market conditions and the extent to which domestic prices prevail (or not) in a normal competitive market absent the particular market situation.

In making these assessments, the commission has relied on and considered all the evidence available to it, including verified data provided by Dalian Steelforce, questionnaire responses provided by other Chinese exporters, all relevant submissions made in this inquiry, the findings of previous cases conducted by the commission and desktop research.

¹⁰⁸ The Manual, p. 36.

A complete examination of the evidence for this finding is below.

A4 The GOC role in the Chinese steel market

A4.1 Overview

The Chinese economy in general has undergone significant economic structural reforms to transition towards greater liberalisation of trade and foreign direct investment inflows and outflows. However, the role of government at all levels in the Chinese economy, controlling trade and foreign direct investment liberalisation for social and economic purposes, has created a hybrid system in China where decisions of the market are heavily influenced by government as opposed to conditions of competition. Simply put, Chinese firms selling and purchasing in China's steel markets set prices and make purchasing decisions that are influenced by the directives and policies of the GOC, competition with State-owned enterprises (SOEs) that reflect the economic, social and fiscal goals of the GOC as well as private firm competition on price, product and market share.

A4.2 GOC policies affecting the steel industry

The Chinese steel industry is of significant importance to China's national, economic and social security. Growth in this industry has been dependent on structured investment in, and funding of, fixed assets in SOE steel mills, steel production output for massive infrastructure and urbanisation projects supported by the GOC and export-oriented trade.

A4.3 Initiatives influencing Chinese steel markets

In order to achieve such significant steel manufacturing output to achieve supply-side economic growth and reform, the GOC manages an array of subsidy programs¹⁰⁹, soft lending and credit facilities, preferential loans, land grants and capacity controls to drive domestic output and consumption of steel.

In recent years, China's steel industry has played an important role in its economic structural reform and as such, changes in response to global issues and concerns are slow and incremental. The commission understands that the GOC prefers incremental reform so as not to induce 'shock' changes and sudden reforms in its steel industry, which has the potential to risk the livelihoods of directly employed workers and workers employed in related industries.

Specific initiatives, implemented to address imbalances in the Chinese steel market broadly, 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).

¹⁰⁹ These subsidy programs affect individual exporters differently depending on the level of subsidy they receive.

The GOC Advice proposed reducing SOE capacity by 100 to 150 million tonnes by 2020, via the banning of new capacity building and elimination of colloquially named ‘zombie mills’.¹¹⁰ The Central Government had also pledged a RMB 100 billion fund for employee compensation, social security payments and plant closure incentives in the coal and steel sectors.¹¹¹

The GOC Opinions forbid the registration of new production capacity in any form and require that any production that does not meet environmental, energy consumption, quality, safety or technical standards be taken offline.¹¹²

The commission recognises the GOC’s attempts to restructure and reorganise the industry to manage excess capacity, oversupply and environmental concerns. 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.¹¹³ 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 inquiry period.

One key concern with zombie mills is that they reflect capacity that is idle rather than capacity permanently removed from the market. This means that, while the temporary removal of capacity helps moves toward competitive market conditions, those same plants have potential to return to production when higher steel prices prevail, leading to further distortions.¹¹⁴ An example of this relates to a significant amount of capacity removed in 2016, which was already idle. The real capacity permanently removed is estimated to be in the range of 12 million to 20 million tonnes per year, compared to the reported 65 million tonnes.¹¹⁵ As at April 2017, it was reported that China had an estimated 650 million tonnes of overcapacity, and favourable market conditions would likely extend the lifespan of zombie companies, delaying the GOC’s steel industry reforms.¹¹⁶

In addition, local governments have not fully implemented the central directives on capacity reduction, with reports that steel mills engage in ‘capacity swapping’ by moving

¹¹⁰ Liu. H & Song. L, 2016. Issues and Prospects for the Restructuring of China’s Steel Industry. China’s New Sources of Economic Growth. Vol.1. Reform, Resources and Climate Change, pp.338-339. These mills would be shut down under normal competitive market conditions, due to either poor profitability or insolvency.

¹¹¹ Duke Centre on Globalisation, Governance & Competitiveness (Duke Centre), 2016. *Overcapacity in Steel: China’s role in a global problem*, September 2016, p.38.

¹¹² KPMG, 2016. The 13th 5-Year Plan: China’s Transformation and Integration with the World Economy, p.29. Sourced from GOC Opinions, State Council, 4 February 2016.

¹¹³ Platts, 2016. Global Market Outlook, Steel Business Briefing. January 2016, p.14.

¹¹⁴ Platts, 2017. Global Market Outlook, Steel Business Briefing. January 2017, p.10.

¹¹⁵ Ibid.

¹¹⁶ DBS Asian Insights, China’s steel sector supply reform, April 2017, p.5.

capacity to more favourable regions, thereby maintaining or increasing the mill's capacity.¹¹⁷

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

- the replacement of older mills with new larger and more efficient mills
- closing smaller mills to offset the commissioning of new larger mills.

While this may eventually improve the industry's structure over the longer term, its impact to date has been to increase production and exacerbate the existing structural imbalances. For example, the announcement of the creation of the BAOWU Steel Group indicated that it would decommission 2.5 million tonnes of capacity to address overcapacity. However, it also commissioned 9 million tonnes of new capacity at its Zhanjiang facility.¹¹⁸ In 2019, BAOWU Steel Group expected to increase its annual steel production capacity by 20 million tonnes after an agreement to merge with Magang (Group) Holding Co Ltd.¹¹⁹

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. Constraints in the effectiveness of these initiatives not only relate to the extent of the existing imbalances in the industry, but also difficulties in coordinating activities between central, provincial and local levels of government. The resistance of provincial and local governments to closing down mills relates to their role as major employers, sources of tax revenue and providers of social services within their respective regions.¹²⁰ Specific examples of these issues include the reliance of their tax systems on business revenue (including production based VAT) and gross domestic product oriented performance measures which encourage over-investment.¹²¹

A4.4 Industry planning guidelines and directives

The central body responsible for developing and administering planning directives, and providing overarching approval of large-scale investment projects within China is the NDRC¹²². It is the commission's view that directives from the NDRC, as the GOC's central planning authority, would thus be central to both industry specific 'five-year plans' and the planning decisions of all levels of government more generally. More explicit enforcement mechanisms are reflected in the *Notice of the State Council on Further Strengthening the*

¹¹⁷ Steel Guru, [China to further tighten steel capacity swapping rules - NDRC](#) (10 May 2019) and [China to Halt Capacity Swaps Project Approvals in Steel Industry](#) (24 January 2020).

¹¹⁸ Platts, 2016. Global Market Outlook, Steel Business Briefing. June 2016, p.11.

¹¹⁹ Reuters, 2019, '[China Baowu Steel to take majority stake in rival Magang](#)'.

¹²⁰ Platts, 2016. Global Market Outlook, Steel Business Briefing. April 2016 p.16.

¹²¹ Duke Centre, *op cit* (172), p.29.

¹²² [National Development and Reform Commission](#).

Elimination of Backward Production Capabilities and Guidelines (the GOC Guidelines).¹²³ Mechanisms to address non-compliance include:

- revoking of pollutant discharge permits
- restrictions on financial institutions providing new credit support
- restrictions on examination and approval of new investment projects
- restrictions on approval of new land for use by the enterprise
- restrictions on issuing of new, and cancelling of existing, production licenses.

According to reports, the GOC Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments. More implicit enforcement mechanisms are reflected by the regulatory powers of bodies, such as the Ministry of Industry and Information Technology. It is the commission's understanding that such bodies maintain lists of companies that are deemed to be either compliant or non-compliant with national standards on production, environmental protection, energy efficiency and safety. Those deemed non-compliant are to be closed.¹²⁴

It is the commission's view that the effectiveness of the above mentioned mechanisms are reflected in the responsiveness of industry groups and major companies to the GOC's various directives.

China adopted its 13th *Five-Year Plan for National Economic and Social Development* (the Plan) on 15 March 2016. The Plan outlines China's goals, principles and targets for infrastructure, the environment, financial services, health and social and economic development for the 5 years to 2020. The Plan has a strong emphasis on supply-side structural reform that promotes the upgrade of industrial structures, strengthening market-oriented reforms, reducing industrial capacity, inventory, financial leverage and costs, and correcting structural shortcomings.¹²⁵ The Plan remained current in the first half of the inquiry period and its effects are considered to have continued throughout.

To support the Chinese steel industry's development in line with the Plan, the *Iron and Steel Industry Adjustment and Upgrade Plan* (2016-2020) (the Upgrade Plan) was developed. The Upgrade Plan proposed to raise the average annual growth rate of industrial added value from 5.4% in 2015 to 6% by 2020, raise the capacity utilisation rate from 70% in 2015 to 80% by 2020, and raise the industrial concentration in top 10 producers from 34.2% in 2015 to 60% by 2020.¹²⁶ Examples of the Chinese steel industry's response to these directives was reflected in the restructuring of the BAOWU

¹²³ [Notice of the State Council on Further Strengthening the Elimination of Backward Production Capacities] State Council (China), Notice no. 7, 6 April 2010 ('GOC Guidelines').

¹²⁴ Office of the Chief Economist, Department of Industry, Innovation and Science, Resources and Energy Quarterly (December 2015), p. 47.

¹²⁵ KPMG, 2016. The 13th 5-Year Plan: China's Transformation and Integration with the World Economy, p.3. Sourced from GOC Opinions, State Council, 4 February 2016.

¹²⁶ King & Spalding, China Issues 13th Five-Year Plan for the Steel Industry, Yan, Linga, November 22, 2016.

Steel Group. In 2019, BAOWU Steel Group was the largest producer of crude steel in China and the second largest worldwide.¹²⁷

There have been a number of GOC policies, plans and initiatives relevant to the China steel industry published within the last 20 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).¹²⁸ As these plans have ended, the commission's view is that these were largely superseded by further policies and plans.

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

1. Steel Industry Adjustment Policy (2015 Revision)

- upgrading product mix
- rationalising steel production capacity
- adjustments to improving organisational structures
- energy conservation, emission reductions, environmental protection
- production distribution
- supervision and administration
- guiding market exit
- methods of orientation and oversight of mergers and reorganisations
- consolidate number of steel companies
- lift capacity utilisation rates to 80% by 2017.

2. Circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy

- promoting of economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion
- intensify the implementation of industrial policies related to the iron and steel sector to strengthen the examination thereof and to improve them in practice.

3. State Council Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation¹²⁹

- SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach
- state-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programmes, to strengthen their

¹²⁷ [2020 World Steel in Figures](#), World Steel Association, May 2020.

¹²⁸ In noting that some of the listed documents are now dated, the commission considers that this further demonstrates long term involvement of the GOC within the Chinese steel industry.

¹²⁹ *General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring* [State Council on Promoting Central Enterprises (China), Notice no. 56, 26 July 2016 http://www.gov.cn/zhengce/content/2016-07/26/content_5095050.htm

- operations, and allow non-state-owned capital to play a role, while ensuring the state-owned capital's leading position
- related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, non-ferrous metal, shipping, construction materials, tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.
4. 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% by 2020
 - further industry consolidation leading to 10 largest producers accounting for 60% of production by 2020.
 5. Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries (2013)¹³⁰
 6. Three-Year Action Plan to Win the Blue Sky War (2018–2020, published 2018)¹³¹

In addition, broader industrial restructuring and reorganising directives of the GOC have an impact on the Chinese steel industry.¹³²

In assessing the relevance of these planning guidelines and directives, the commission notes the importance of the GOC's national 5-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.¹³³ 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 NDRC and explicit enforcement mechanisms. The GOC, where it is also the majority owner of an SOE, can exert its influence through the appointment of board directors and chief executives.¹³⁴

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

¹³⁰ *Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries*] Ministry of Industry and Information Technology (China), Notice no. 16, 22 January 2013 http://www.gov.cn/zwqk/2013-01/22/content_2317600.htm

¹³¹ *Three-Year Action Plan to Win the Blue Sky War*] State Council (China), Notice no. 22, 27 June 2018 http://www.gov.cn/zhengce/content/2018-07/03/content_5303158.htm

¹³² For example, Notice of Several Opinions on Curbing Overcapacities and Redundant Constructions in Certain Industries and Guiding the Healthy Development of Industries (2009), Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013), Guiding Opinions on Resolving Serious Excess Capacity Contradictions (2013) and Directory Catalogue on Readjustment of Industrial Structure (2013 Amendment).

¹³³ *International Trade Remedies Branch Report No. 177 (REP 177)*, p.123 refers.

¹³⁴ Dong Zhang and Owen Freestone, *China's Unfinished State-Owned Enterprise Reforms* (2013), *Economic Roundup*, The Treasury, Australian Government, issue 2, pp. 79-102.

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 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.¹³⁵

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*. The commission understands 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.¹³⁶

A4.5 Role and operation of SOEs

It has been observed that:

*[SOEs] are an organic component of China's political and economic governance, although their contribution to the national output has shrunk to 40%. They are still considered to be substantial building blocks of the economy and act as a buffer against internal shocks and external threats.*¹³⁷

The Chinese economy is commonly described as a 'socialist market economy' as it features dominant SOEs co-existing with market capitalism and private enterprise.¹³⁸ Commentary provided with the 2019 Fortune 500 list indicates that of the 129 Chinese companies listed that year, SOEs accounted for 80% of the revenue earned, an increase of 4% on the previous year.¹³⁹

Between 2010 and 2015, SOEs accounted for 44% of total Chinese steel production.¹⁴⁰ However, this may have been as high as 60%.¹⁴¹

The World Bank has found that 'state enterprises have close connections with the Chinese government. SOEs are more likely to enjoy preferential access to bank finance

¹³⁵ REP 177, p.128 refers.

¹³⁶ 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](#).

¹³⁷ Amir Guluzade, published on the World Economic Forum website, [How reforms have made China's state owned enterprises stronger](#) (21 May 2020).

¹³⁸ Asialink Business, [Overview of China's economy](#), accessed 21 July 2020.

¹³⁹ <https://fortune.com/2019/07/27/ceo-daily-july-27-sino-saturday/>.

¹⁴⁰ Liu. H & Song. L, 2016, p.349.

¹⁴¹ Platts Steel Business Briefing (Platts), *Global Market Outlook*, January 2016, p.14.

and other important inputs, privileged access to business opportunities, and even protection against competition.¹⁴²

While the commission does not consider that the presence of these entities alone causes market distortions, it does consider that the presence of these entities is likely to result in adherence with the GOC's plans and directives. 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.¹⁴³

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.¹⁴⁴

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).¹⁴⁵ In introducing the Guidance, the State Council notes 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.

In 2019, the GOC announced its intention to introduce a 3-year action plan on SOE reform, which reflects the continuation of the significance of SOEs to the Chinese economy.¹⁴⁶ The plan is designed to target mixed-ownership reform and strategic restructuring in sectors including coal and electricity, steel and non-ferrous metal. In

¹⁴² World Bank, China 2030: Building a Modern, Harmonious, and Creative Society, Report No. 96299 (March 2013), p.25.

¹⁴³ Anti-Dumping Commission, [Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission August 2016](#) (Commissioner's Steel Report), p.47.

¹⁴⁴ Liu. H & Song. L, 2016, p.348.

¹⁴⁵ The State Council, notice advising the issuing of the [guideline on reorganization of SOEs](#) (July 2016).

¹⁴⁶ The State Council, notice [urging SOEs to increase profitability and deepen reform](#) (July 2020).

recent years, SOE reform has focussed on consolidation through mergers and acquisitions, which has (arguably) increased the state's presence in the market.¹⁴⁷

The commission considers that in combination with slow, incremental policy reform and the GOC's economic and fiscal stimulus packages, the role of SOEs in general, involved in '...capital intensive sectors that produce intermediate but highly tradable goods with important linkages to other upstream and downstream economic activities, such as the mining, chemicals or even electronics sectors...' ¹⁴⁸ provides a buffer to the Chinese steel industry from external market forces. Those SOEs '...operating in upstream sectors... provide inputs to steel companies at below-market prices and in preferable terms. The same applies to downstream [SOE] companies buying steel products at above-market rates, thus providing support to steel companies. In addition, several concerns relate to the functioning of the financial sector in the presence of [SOEs]'.¹⁴⁹

A4.6 The role of the GOC in private firms

In addition, the commission understands that while not expressly compulsory under law, private firms engage with the policies and objectives of the GOC by aligning their commercial interests with industry directives and where relevant, appointing party members on supervisory boards.

A4.7 Direct and indirect financial support

Examples of specific support programs provided to Chinese steel producers by the GOC, as identified by the American Iron and Steel Institute and the Steel Manufacturers Association, include preferential loans and directed credit, equity infusions and/or debt-to-equity swaps, access to land at little or no cost, government mandated mergers (permitting acquisition at little or no cost) and direct cash grants for specific steel construction projects.¹⁵⁰ Similar programs have been previously identified by the commission in respect of the Chinese steel industry. It is the commission's view that these programs have directly contributed to conditions within the Chinese steel industry during the inquiry period by providing direct financial support to recipient steel producers.

The commission notes that countervailable subsidies have been received by exporters from China (see **Non-confidential APPENDIX D**). These subsidies and tax concessions reduce the operating costs of Chinese steel enterprises, confer a competitive advantage through the ability to offer steel products at lower prices and increase the profitability of steel production.¹⁵¹ Although subsidies affect specific exporters differently based on the level of subsidy they receive, subsidisation supports unprofitable producers, delaying or

¹⁴⁷ Hong, Y (2019), 'Reform of State-owned Enterprises in China: The Chinese Communist Party Strikes Back', *Asian Studies Review*, pp.332-351.

¹⁴⁸ OECD Steel Committee, [State Enterprises in the Steel Sector](#) (20 December 2018), p.5.

¹⁴⁹ OECD Steel Committee, [State Enterprises in the Steel Sector](#) (20 December 2018), p.8.

¹⁵⁰ Duke Centre, *op cit* (172), p.25.

¹⁵¹ Commissioner's Steel Report, at www.adcommission.gov.au p.45.

preventing their timely exit from the industry. These industry-wide effects are broader than the recipient-specific subsidisation that is the subject of countervailing duties.

A4.8 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*.¹⁵² 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.

The GOC has traditionally operated, amongst other taxation arrangements, a VAT and a VAT rebate system for certain exported goods which has undergone incremental change. In 2018 and 2019, the GOC implemented a further series of VAT reforms, which included lowering the VAT rates paid, as described in the table below.

	Tier 1 VAT rate payable	Tier 2 VAT rate payable	Tier 3 VAT rate payable	Tier 4 VAT rate payable
Pre-1 July 2017	17%	13%	11%	6%
1 July 2017	17%	11%	6%	<i>Tier 4 revoked</i>
1 May 2018	16%	10%	6%	
1 April 2019	13%	9%		

Table 24: VAT rate reform in China 2017 to 2019¹⁵³

Under the Chinese VAT system, VAT 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 ‘...and successive tax payers are allowed to deduct the VAT they pay on their purchases while they account for VAT they collect on the ‘value added’’.¹⁵⁴ Because it is difficult for exporters to pass on the input VAT tax to export customers, eligible steel exporters have traditionally been compensated for input VAT paid during the production process via the payment of 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 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

¹⁵² Concerning hot rolled plate steel exported from China, the Republic of Indonesia, Japan, the Republic of Korea and Taiwan, pp. 41-43.

¹⁵³ <https://www.oecd.org/tax/consumption/status-of-the-vat-reform-in-the-peoples-republic-of-china-2018.pdf> - 2019 rates verified for the goods in the investigation period.

¹⁵⁴ <https://www.oecd.org/tax/consumption/status-of-the-vat-reform-in-the-peoples-republic-of-china-2018.pdf>

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 inquiry period, the applicable VAT rebate rates for exports of the goods was 13% from the start of the period, until the end of April 2021. This resulted in applied VAT rates for exports of HSS of 0% for 10 months of the inquiry period. From May 1 until the end of the period, all VAT rebates for HSS were removed¹⁵⁵, resulting in an effective VAT rate of 13% during May and June 2021. Note also that this change had been forecast from February 2021, creating an incentive for Chinese exporters to export more before the May 1 2021 deadline. Export taxes may apply to these goods, but in the absence of an RGQ from the GOC, the commission is unable to further comment on this issue.

A5 Competition in Chinese steel markets

The commission considers the GOC's involvement and influence over the steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry and the HRC and HSS markets. The issuance of planning guidelines and directives along with provisions of direct and indirect financial support^{156, 157} creates a domestic market that benefits domestic producers and supports inefficient enterprises, but does not support access and therefore competition from foreign producers.

The commission acknowledges that China's supply side structural reform targets the structure of production, to make it more efficient and to balance the supply side of China's economy with the demand side.¹⁵⁸ It is a '...suite of policies focus[ing] on reducing distortions in the supply side of the [Chinese] economy and upgrading the industrial sector.'¹⁵⁹ China's steel industry has been a key focus of these policy reforms.

In short, the Chinese steel market is constructed such that preferential treatments, whether focussed at SOEs or not, create a situation of '...competition for factors of production...' ¹⁶⁰ rather than market driven competition based on price, service and value.

The commission therefore considers that the GOC's historic and continued involvement in the Chinese steel industry, through its policies, planning guidelines, plans and directives, materially contributed to its steel industry's overcapacity, over supply and distorted structure during the inquiry period. It is the commission's view that these features have also limited foreign competition. When considered together, the state of affairs created by the GOC significantly affected the dynamics and price setting in the domestic market.

¹⁵⁵ Platts, [Market Insights](#), April 2021

¹⁵⁶ Support measures include stimulus programs, land and energy subsidies and soft lending policies.

¹⁵⁷ Duke Centre, *op cit* (172), p.24.

¹⁵⁸ <https://www.rba.gov.au/publications/bulletin/2018/dec/chinas-supply-side-structural-reform.html>

¹⁵⁹ <https://www.rba.gov.au/publications/bulletin/2018/dec/chinas-supply-side-structural-reform.html>

¹⁶⁰ Dong Zhang and Owen Freestone, [China's Unfinished State-Owned Enterprise Reforms](#) (2013), [Economic Roundup](#), The Treasury, Australian Government, issue 2, pages 79-102, December, at p.91.

A6 GOC influence on the Chinese hollow structural sections market

The commission has found in the preceding section that the GOC exerts significant influence over the Chinese steel market. This section assesses the effect of that influence on HRC prices in China and therefore on the cost of the primary steel input feed in the manufacture of the goods by Chinese producers.

A6.1 Significance of HRC costs in the production of the goods

The commission has found that HRC is the major raw material input used in the production of HSS.

The commission has verified the HRC costs associated with the production of the goods and like goods during the inquiry period for participating producers. The commission found that coil costs represented a significant and broadly consistent proportion of the CTM of the goods and like goods. This is depicted in the table below.

Country of production	Percentage of total CTM made up by HRC	Percentage of raw material costs made up by HRC
Australia	83%	99%
China	91%	99%
Korea	97%	99%
Taiwan	86%	100%

Table 25: Raw material coil as a proportion of CTM of the goods¹⁶¹

The proportion of CTM represented by raw material costs for Australian producers is lower than that for Chinese and Korean producers primarily due to higher manufacturing overheads (including labour).

From its previous inquiries into HSS, the commission understands raw material prices are influential in setting selling prices for the goods and like goods, with lower raw material prices resulting in lower HSS prices.

Given the high cost proportion of HRC in the production of the goods and like goods and its influence on pricing decisions, the commission considers that HRC price has a significant impact on both the production cost and selling price of the goods and like goods.

A6.2 Comparison of raw material prices

As a result of previous cases and after considering the evidence before it for this inquiry, the commission considers that normal competitive market conditions absent a particular market situation prevail in the Korean and Taiwanese domestic markets for HRC and that purchases of HRC in these markets are not influenced by prices in China.¹⁶² The

¹⁶¹ No data was provided on Malaysian exports of the goods. See Confidential Attachment 31 - CTM analysis.

¹⁶² See REP 529 available on the commission's website.

commission therefore considers that purchases of HRC in these markets are suitable for comparison with purchases of HRC in China to quantify the effect of the particular market situation on Chinese prices during the inquiry period. Malaysian HRC purchases have not been considered by the commission in this inquiry due to a lack of cooperation from Malaysian entities.

The commission was provided with the raw material purchase data for Chinese exporters, Dalian Steelforce, Hengshui Jinghua and Tianjin Ruitong covering the inquiry period. The commission notes that Dalian Steelforce, the sole verified Chinese exporter, sourced 99% of HRC used in the manufacture of the goods from Chinese steel mills. Hengshui Jinghua and Tianjin Ruitong sourced all their raw material purchases from Chinese mills.

The cooperating HSS producers in Korea and Taiwan sourced both domestically produced and imported HRC, with imported HRC coming from a range of sources.

HRC from China and from other, unknown sources accounted for approximately 15% of the HRC purchases by cooperating HSS producers in Korea. In conducting the following analysis, the commission has excluded these HRC purchases to identify HRC prices in Korea that are, to the extent possible, not influenced by uncompetitive HRC prices from China.

Taiwanese exporters did not purchase HRC from China during the inquiry period.

The commission compared the monthly weighted average price paid by these Chinese exporters for HRC (as it was the only raw material common across all exporters and represented the greatest volume) in the inquiry period with prices paid by Korean and Taiwanese exporters. The weighted average monthly price for HRC was calculated in RMB/MT, excluding VAT and at EXW, plus delivery.

As all pricing data used by the commission in its analysis was reported in the relevant local currency, the commission has converted and compared prices in USD. The commission performed a currency fluctuation analysis as part of this process to examine whether any such fluctuations may have distorted its price comparisons.

As the currency conversion has been made on an average monthly exchange rate, the commission has not undertaken an assessment for short-term (i.e. on a daily basis) currency fluctuations. However, the commission has assessed whether there has been a sustained currency fluctuation experienced between the USD and any of the local currencies used. The figure below depicts monthly movements in the exchange rate for each of the relevant currencies to the USD.

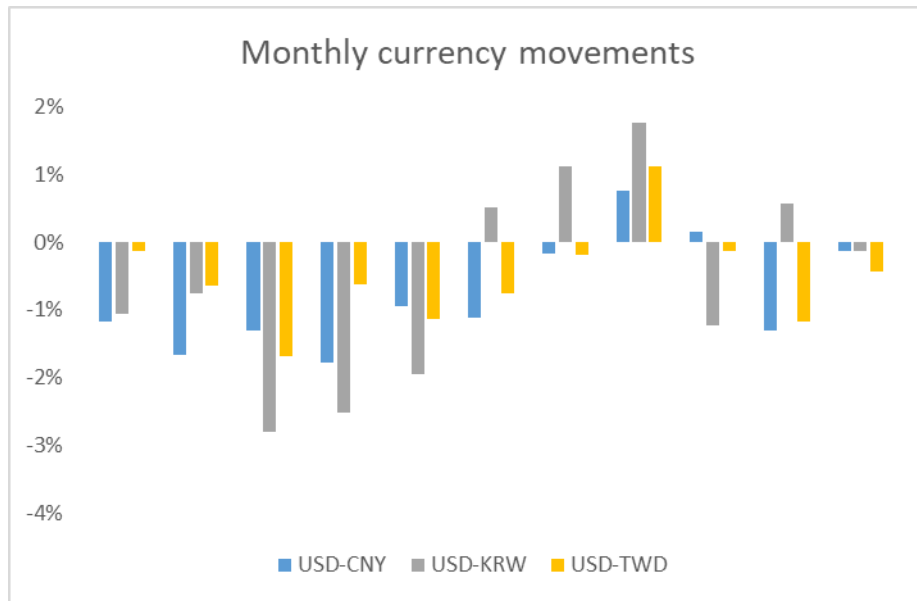


Figure 21: Monthly currency movements during inquiry period¹⁶³

The currency with the greatest monthly movement against the USD is the Korean won (KRW). However, the largest monthly movement in the USD-KRW exchange rate is less than 4%, with no cumulative movement of greater than 5% over any two consecutive months. The commission considers a fluctuation equal to or greater than 5% over an 8 week period to constitute a sustained currency movement. Accordingly, as there appears to have been no sustained currency fluctuation over the inquiry period, the commission is satisfied there a USD comparison between prices will provide a result undistorted by currency movements.

The figure below depicts the monthly price of HRC over the inquiry period for the Chinese exporters and the benchmark price based on Korean and Taiwanese exporter data.

¹⁶³ Confidential Attachment 32 – Currency fluctuation analysis.

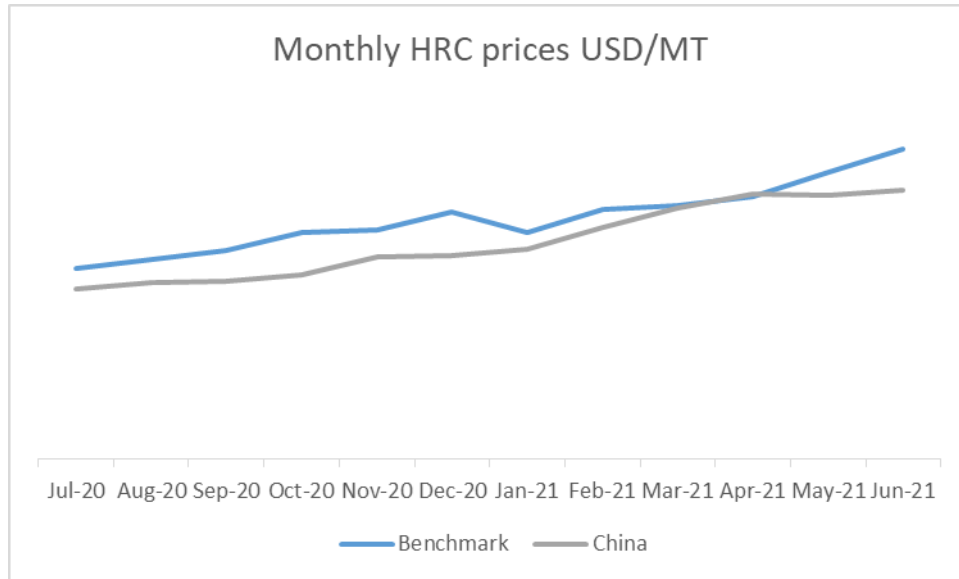


Figure 22: Monthly HRC prices

In every month, other than April 2021, the Chinese price for HRC was lower than the benchmark price for HRC. In April 2021, the Chinese price was less than 1% higher than the benchmark. The commission also notes that in March 2021, the benchmark price was less than 1% higher than the Chinese price.

This analysis is in **Confidential Attachment 29**.

To gain a broader understanding of the Chinese HRC market, the commission has also examined benchmark pricing data provided by MEPS, an international independent supplier of steel market data and information.¹⁶⁴ The figure below depicts the monthly price of HRC over the inquiry period as reported by MEPS for China, Korea and Taiwan.

¹⁶⁴ The commission has a subscription service with MEPS for the provision of such data.

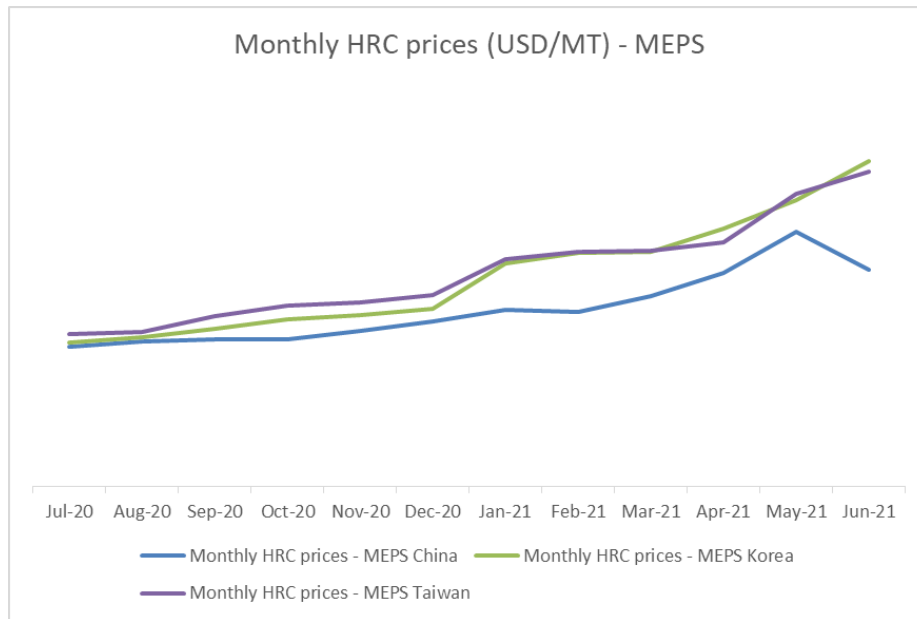


Figure 23: MEPS monthly HRC prices (USD/MT)¹⁶⁵

The figure shows that HRC prices in China are consistently lower than equivalent prices for HRC purchased in Korea and Taiwan. The commission considers that the difference between prices represents, to a not insignificant degree, the GOC influences and distortions on HRC prices in the Chinese domestic market.

A7 Conclusion

In light of all the information before the commission, it is the commission's view that a particular market situation existed in respect of the domestic market for hollow structural sections in China for the inquiry period which may result in domestic sales in China being found not suitable for determining a normal value for cooperating exporters under section 269TAC(1).

However, while the commission is satisfied that the presence of a particular market situation affects the Chinese market for the goods, primarily through the distortion of raw material costs, the degree of this distortion varies between different sectors of the Chinese market. Based on the evidence before it from Chinese exporters, the level of distortion as a result of the particular market situation is not as great in respect of those goods produced by the verified Chinese exporter.

Whether the particular market situation in respect of the domestic market for hollow structural sections in China has resulted in Chinese domestic sales being not suitable for determining a normal value under section 269TAC(1) is discussed in

Non-confidential APPENDIX B.

¹⁶⁵ Confidential Attachment 33 – Raw materials MEPS analysis

APPENDIX B PROPER COMPARISON OF DOMESTIC AND EXPORT PRICES

B1 Introduction

Where a particular market situation is found, pursuant to section 269TAC(2)(a)(ii), the commission must also consider whether, because of the situation in the market of the country of export, sales of like goods in that market are not suitable for determining a price under section 269TAC(1).

As a particular market situation has been found in respect of the domestic market for HSS in China for the inquiry period, the commission has examined whether goods in that market are suitable for determining the normal value of the cooperating Chinese exporter, Dalian Steelforce, under section 269TAC(1).

B2 Approach to proper comparison

In order to assess whether sales are suitable for the purposes of section 269TAC(1), the commission's approach to assessing proper comparison considers the relative effect of the particular market situation on both domestic sales and Australian export sales. If there is a finding that the particular market situation does not equally affect domestic sales and export sales, such a finding may render domestic sales not suitable for the purposes of section 269TAC(1).

The commission considers this approach consistent with Australia's obligations under the Anti-Dumping Agreement¹⁶⁶ and the WTO Panel's interpretation of these obligations set out in DS529.¹⁶⁷

When assessing the relative effect of the particular market situation on domestic prices and export prices, the commission has compared the existing relationships between price and cost in the domestic market and export market of the exporting country. The prevailing conditions of competition in each market will define these relationships. This has involved an examination of:

- the relationship between raw material costs and the domestic prices and Australian export prices for the goods for each relevant producer of the goods and like goods
- the domestic market conditions (the particular market situation) leading to those costs and prices
- export market conditions.

The commission considers that the relationship between cost, price and competition will provide insight into the effect of the particular market situation in the country of export (domestic prices) and Australian markets (export prices). In turn, it will provide insight into

¹⁶⁶ https://www.wto.org/english/docs_e/legal_e/19-adp_01_e.htm

¹⁶⁷ https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds529_e.htm

whether a proper comparison is permitted between domestic prices and Australian export prices.

In particular, the commission has undertaken:

- a *quantitative* assessment of prices, noting that ‘...a purely numerical comparison between the two prices may not reveal anything about whether the domestic price can be properly compared with the export price’¹⁶⁸
- a *qualitative* assessment of prices, to ‘...focus on how the particular market situation affects that comparison’.¹⁶⁹

This approach assesses both the effect of the particular market situation on domestic and export prices. This is because while ‘...a particular market situation may have an effect on both domestic and export prices, it does not follow that the impact on domestic and export prices will be the same’.¹⁷⁰

B3 Examination of Australian conditions of competition

B3.1 Market structure

Chapter 5 of this report discusses the Australian market for HSS. In summary:

- Australian industry and imports from other countries supply the Australian market, selling it directly to customers or through local distributors.
- Australian industry supplies the greatest volume in Australia, with China, Korea and Taiwan supplying significant volumes, along with other countries not subject to measures.
- Australian produced goods and the imported goods have similar end uses, meet similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same markets.
- Demand for HSS is closely aligned to domestic economic performance, and is therefore susceptible to changes in both government and private investment.

The commission considers the Australian market for HSS is a competitive market, characterised by a large number of suppliers and customers engaging in commercial negotiations.

B3.2 Raw material

The major raw material used in the production of the goods in Australia is HRC, purchased from Australian suppliers.

¹⁶⁸ DS529 – para. 7.75.

¹⁶⁹ DS529 – para. 7.75.

¹⁷⁰ DS529 – para. 7.76.

From its previous inquiries into HRC, the commission understands that price is generally the main factor that influences an Australian customer's purchase decision for HRC. Australian producers of HRC set their price based on an import benchmark pricing strategy where known import offers in the Australian market are used to determine the level at which it sets its selling price.¹⁷¹

Australian produced HRC competes with imported goods mostly at the wholesale or distribution level of trade. These customers then on-sell the HRC to end users or other resellers, predominantly in the general manufacturing and pipe and tube industry.¹⁷²

B3.3 Import penetration in the Australian market

The commission examined the ABF import database to identify exporters and importers of HSS during the inquiry period. The commission observed that during the inquiry period:¹⁷³

- the goods were exported to Australia from 22 countries by over 100 unique exporters, with 92 exporters from China, 10 exporters from Korea and 6 from Taiwan (Malaysian imports were negligible during the inquiry period)
- Over 100 unique importers were identified as having imported the goods
- imports accounted for 40% of sales volume in the Australian market
- of these imports, Chinese imports accounted for 15% of sales volume, Korean imports 13% and Taiwanese imports 7%.

The presence of multiple Australian producers of the goods and a number of importers with material import volumes from numerous countries indicates to the commission that the Australian market for HSS can be characterised as having a high level of import penetration contributing to a highly competitive market for the goods between participants.

B4 Examination of Chinese conditions of competition

B4.1 Market structure

The commission sent the GOC a questionnaire at the beginning of the inquiry requesting information, among other things, in relation to the HSS market in China. The commission did not receive a response to this questionnaire.

Dalian Steelforce advised in its REQ that it was not in a position to provide a response to questions on the Chinese market for the goods, because it does not sell the goods on its domestic market.

¹⁷¹ REP 400, chapter 4.3.2.

¹⁷² REP 400, chapter 4.3.

¹⁷³ Confidential Attachment 1 – Australian Market

In the absence of contrary information, the commission considers that the most recent analysis of the Chinese market for the goods from REV 529 remains relevant.¹⁷⁴ It found that in the Chinese domestic market, Chinese HSS producers operate under market conditions which differ from those of exporters in Korea, Malaysia, Taiwan (and Thailand) and that of the Australian industry. Specifically, the market situation in China reduces production and selling risks for producers and reduces input costs across all production. This lowers HSS prices throughout the market, such that prices reflect the lowered marginal cost of the HRC input. In this way, the market situation directly affects HSS prices.

B4.2 Raw material

From the data provided to the commission during verification, the major raw material used in the production of the goods in China is HRC and variants of HRC, purchased from Chinese suppliers.

The commission was provided with the raw material purchase data for Chinese exporters, Dalian Steelforce, Hengshui Jinghua and Tianjin Ruitong. The commission compared the monthly weighted average price paid by these Chinese exporters for HRC with the monthly HRC benchmark based on verified Korean and Taiwanese exporter data. The commission also compared the monthly HRC MEPS benchmark for China, Korea and Taiwan – see Figure 22 and Figure 23 in Appendix A6.2.

The commission also compared the raw material costs paid by Chinese exporters with that of Australian industry. This is depicted in the figure below.

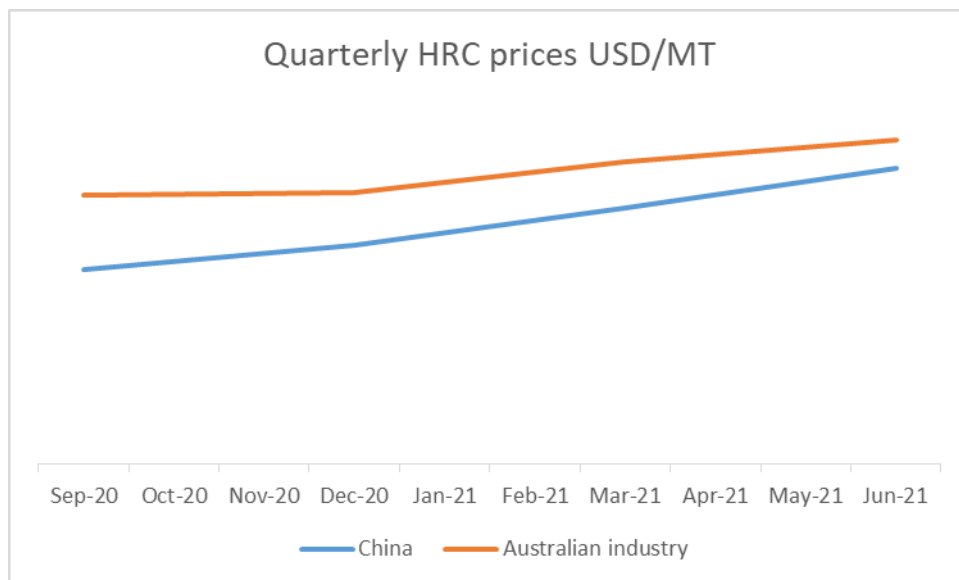


Figure 24: Quarterly HRC price comparison¹⁷⁵

¹⁷⁴ REP 529, section 5.2.3

¹⁷⁵ Confidential Attachment 29 – HRC price analysis

From these datasets, the commission has observed that in relation to the inquiry period:

- based on exporter data, HRC prices paid by Chinese exporters are generally lower than prices paid by other Korean and Taiwanese exporters
- based on MEPS HRC prices, HRC prices in China are consistently lower than equivalent prices for HRC purchased in Korea and Taiwan
- Dalian Steelforce HRC purchase prices are consistently lower than Australian industry purchase prices.

Taking into account the HRC price information available to it, the commission considers that Chinese manufacturers of the goods generally have access to lower priced raw material inputs relative to Korean, Taiwanese and Australian manufacturers. The commission considers the Chinese domestic market conditions lead to lower prices for HRC due to the distortions in the Chinese market, as discussed in **Non-confidential APPENDIX A**.

B4.3 Import penetration in the Chinese market

The commission examined the ABF import database and noted there were more Chinese exporters of the goods than exporters from any other country. Chinese exporters made up more than a quarter of all exporters listed in the ABF import database, and 61% of exporters from the subject countries. Given the relative size of Australia's customer base compared to China's, the commission considers the number of Chinese manufacturers supplying the Australian market would represent only a small portion of all Chinese manufacturers.

As noted in chapter 9.4.3, the commission considers that excess production capacity exists in the Chinese domestic market.

The commission considers that, due to the number of Chinese producers supplying the Chinese market, and based on the lower cost of raw material inputs available to those producers, relative to comparable international benchmarks absent of a particular market situation, there would appear to be a competitive disadvantage in respect of the importation of the goods into China.

Tianjin Ruitong in its REQ stated that import volume in China has increased for 3 consecutive years, but import volumes present less than 1% of domestic consumption. The low level of import volumes reported by Tianjin Ruitong is consistent with previous findings by the commission in REV 529, *Investigation 550 into Precision Pipe and Steel Tube exported from China, Korea, Taiwan and Vietnam* and *Investigation 553 into Painted Steel Strapping exported from China and Vietnam*.

Accordingly, based on the information before the commission, albeit limited, it appears on balance that import penetration in the Chinese market for the goods was low in the inquiry period, relative to the Australian market.

B5 Relationship between price and cost – China

The commission considers that Chinese producers supplying HSS to the Chinese domestic market operate under unique market conditions that differ from those in other countries, including in Australia. Specifically, the particular market situation in China reduces costs across all production due to lower raw material costs.

From analysis of the cooperative exporter's records, the commission found that raw material costs affected the CTM for both domestic and exported goods equally. During verification, the commission found that the cooperating Chinese exporter used the same facilities, raw material inputs and manufacturing processes to manufacture HSS into the Chinese domestic market as that exported to Australia, with raw materials accounting for the majority of the total CTM.¹⁷⁶

The commission compared the HRC costs for HSS produced for sale on the domestic market by the cooperating exporter against the HRC costs of HSS produced for export to the Australian market. The commission observed only marginal difference in costs between goods produced for domestic consumption and those produced for export to Australia.

B5.1 Chinese domestic prices

The commission was unable to compare domestic selling prices for the goods across different Chinese manufacturers due to a lack of common MCCs sold by exporters. The differences in the MCCs sold by exporters were significant to the extent that the commission did not consider they could be properly compared.

Nonetheless, from the evidence before it from the questionnaire responses, the commission is satisfied the Chinese domestic market for HSS consists of a number of producers that compete with each other. As a result of this environment for the goods, the lower raw material costs attributable to the particular market situation directly affect HSS prices, such that the prices are lower than they would otherwise have been.

This relationship defines the conditions of competition in China. The effect of the particular market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between domestic producers selling in the domestic market as it modifies the conditions of competition in a consistent manner for all market participants.

Therefore, the commission considers that Chinese producers have little flexibility with respect to price setting for sales of HSS in their domestic market.

B5.2 Chinese export prices

The commission reviewed export price data provided during the inquiry by Dalian Steelforce and Tianjin Ruitong. No Australian sales data was provided by Hengshui

¹⁷⁶ See Table 25Table 25

Jinghua, as this was not required for non-selected Chinese exporters. The data provided by Youfa International Trade is not considered suitable for analysis because, as discussed in chapter 7.3.2 it is not an exporter of the goods.

From this analysis, the commission identified one MCC exported into Australia by both exporters. However, only minimal volumes of this MCC was exported during the inquiry period.

Accordingly, the commission has relied upon import prices available from the ABF import database to undertake its analysis of the relationship between raw material costs and export prices.

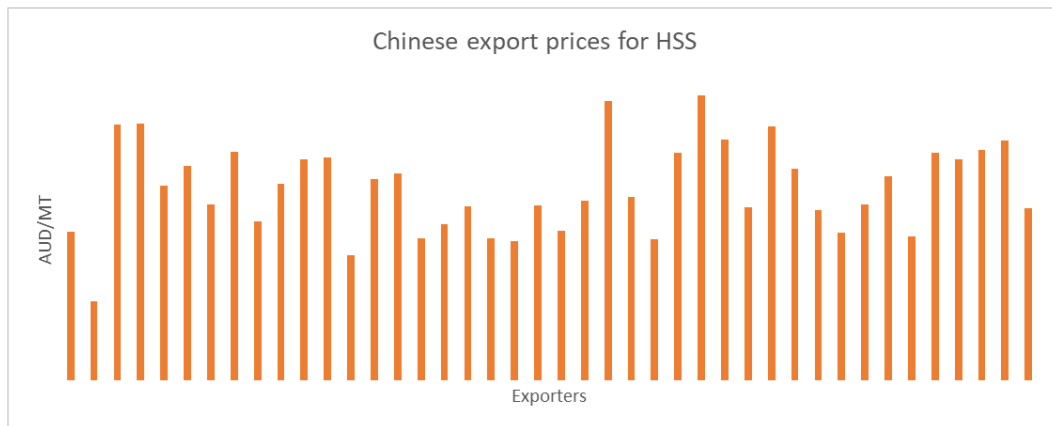


Figure 25: Anonymised Chinese weighted average FOB export prices into Australia over the inquiry period¹⁷⁷

Figure 25 shows significant price variability in pricing by Chinese manufacturers in the Australian market.

The commission also notes its observations in chapter 9.6.1, repeated below:

- the Australian market for HSS was characterised by significant levels of direct competition between Australian industry and imports from multiple sources, both subject to measures and free of measures
- selling prices of the imported goods from the subject countries undercut Australian industry prices at both an MCC and direct customer level
- the commission identified that for 83% of the instances of direct competition observed, Orrcon's price was undercut by imported Chinese goods, with undercutting rates up to 28%.

B5.3 Conclusion

Based on the above analysis, the commission considers that:

¹⁷⁷ Confidential Attachment 34 – China export price analysis

- there is a market which is internally competitive between domestic participants in China where no competitive advantage is derived by any individual manufacturer as the reduced production costs resulting from the situation in the market benefits all producers
- the Australian market is a competitive market. The commission considers variability of pricing between Chinese manufacturers supplying to the Australian market is indicative of a competitive advantage attributable to the particular market situation, which allows Chinese exporters to engage in pricing strategies in the Australian market which achieve either:
 - higher margins than the margins attainable on the sale of the same goods on the domestic market
 - increased sales volumes by through undercutting Australian industry
 - a combination of higher margins and increased sales volumes resulting from undercutting.

B6 Conclusion

The commission's analysis indicates that the relationship between price and cost and the prevailing conditions of competition in China is different in comparison to the relationship between price and cost and the prevailing conditions of competition in Australia. Specifically, the effect of the particular market situation in China is a decrease in input costs across all production that results in a lower level of competitive pricing throughout the market in China. This relationship defines the conditions of competition in China.

Based on the information before the commission, on balance, the effect of the particular market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between market participants, being Chinese producers. In other words, while there may be competition between Chinese producers based on manufacturing efficiencies and other factors (no evidence of which was presented to the commission during the inquiry), the particular market situation nonetheless modifies the conditions of competition in a consistent manner for market participants.

In Australia, where no particular market situation or input cost decrease exists, competitive pricing prevails at a higher level. Higher production costs for those participants producing without the benefit of a particular market situation establishes a higher minimum threshold for competitive prices. Under these circumstances, the effect of the particular market situation in China on the price of Chinese HSS sold into the Australian market results in competitive advantages and disadvantages between market players.

Specifically, Chinese exporters enjoy a cost advantage that manifests as an increased margin at the prevailing level of competitive pricing in the Australian market, a lower export price that undercuts the Australian industry pricing, or a combination whereby the Chinese manufacturer can enjoy a higher margin while still undercutting Australian industry. In other words, the effect of the particular market situation on export price is to modify the conditions of competition in Australia to the benefit of Chinese exporters and, to the extent that benefit manifests as a low price, to the detriment of Australian manufacturers. Thus, the relative effect of the particular market situation on domestic and export prices is different in the relevant markets.

PUBLIC RECORD

In the present inquiry, the commission considers that the evidence discussed in this chapter indicates that sales in the domestic Chinese market are not suitable for determining a normal value for cooperating Chinese exporters pursuant to section 269TAC(1) because the price of such sales do not permit a proper comparison with the export price of the goods exported to Australia.

APPENDIX C CONSTRUCTED NORMAL VALUES – CHINA

C1 Applicable legislation, policy and practice

Where the Minister is satisfied that a normal value cannot be determined under section 269TAC(1), as is the case in this inquiry for Dalian Steelforce from China, section 269TAC(2)(c) provides that the normal value is:

... the sum of:

- *such amount as the [Minister] determines to be the cost of production or manufacture of the goods in the country of export; and*
- *on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the [Minister] determines would be the administrative, selling and general costs associated with the sale and the profit on that sale*

As required by sections 269TAC(5A) and 269TAC(5B), the construction of normal values under section 269TAC(2)(c) must be in accordance with the Regulation.

In constructing normal values, section 43(2) of the Regulation requires that the Minister must work out the cost of production or manufacture using the information set out in the exporter or producer's records if:

- an exporter or producer of the goods keeps records relating to the goods that are in accordance with GAAP in the country of export, and
- those records reasonably reflect competitive market costs associated with the production or manufacture of like goods.

In determining whether costs reasonably reflect competitive market costs associated with the production or manufacture of like goods, the commission will determine whether those costs reasonably reflect the costs associated with the production or manufacture of like goods and are competitive market costs suitable for the purpose of constructing normal values.

The commission may determine, pursuant to section 43(2) of the Regulation, that while costs may be in accordance with GAAP and may reasonably reflect the costs associated with the production or manufacture of the like goods, being the costs actually incurred by the exporter or producer, the costs may not be a competitive market cost suitable for the purpose of constructing normal value. In those circumstances, it is the commission's practice to provide a reasoned explanation of why those costs do not reflect competitive market costs and why they are not suitable for constructing a normal value. Where an allegation that particular market situation exists, the reasoned explanation will include any relevant particular market situation assessment and finding.

It is the commission's view that it is open for the Minister to adjust an exporter or producer's records to reasonably reflect competitive market costs associated with the

manufacture of the goods in the country of export, where an exporter or producer's records are reliable and in accordance with GAAP but do not reasonably reflect competitive market costs associated with the manufacture of like goods suitable for the purpose of constructing normal values. In making such adjustments, the commission considers that the Minister may have regard to all relevant information.

C2 Establishing normal values

The commission notes that, in accordance with section 269TAC(3A), the Minister is not required to consider working out the normal value of goods under section 269TAC(2)(d) before working out the normal value of goods under section 269TAC(2)(c). Where section 269TAC(1) is not available, the commission's policy preference, as outlined at chapter 10 of the Manual, is to construct normal values under section 269TAC(2)(c), in the first instance, when cost data of exporters is available.

When considering whether it is preferable to use the price paid or payable for like goods sold by the exporters to a third country, pursuant to section 269TAC(2)(d), the commission must be satisfied that it is an 'appropriate third country'. The commission has regard to the following factors, to determine whether any such third country is 'appropriate':¹⁷⁸

- whether the volume of trade from the country of export to the selected third country is similar to the volume of trade from the country of export to Australia, and
- the nature of the trade in like goods between the country of export and the selected third country is similar to the nature of trade between the country of export and Australia (in considering 'nature of trade' such things as the level of trade in a third country may be relevant).

In this case, the commission considers that the information provided by Dalian Steelforce in its REQ does not provide a precise or granular level of detail to determine whether a third country would be appropriate and to undertake the calculations required to determine a normal value.

Consequently, the commission has constructed normal values under section 269TAC(2)(c) for Dalian Steelforce, and has done so in accordance with sections 43, 44 and 45 of the Regulation, relevant aspects of which are outlined below.

C3 The records of Dalian Steelforce

The commission is satisfied that Dalian Steelforce kept records in relation to the production of like goods. Further, the commission is satisfied that Dalian Steelforce's records are in accordance with GAAP in China and reasonably reflect costs associated with the production of like goods, being that they reflect the costs actually incurred by Dalian Steelforce.

¹⁷⁸ The Manual, page 51.

Additionally, the commission assessed whether the costs of production as reported in Dalian Steelforce's records reasonably reflect *competitive market costs* suitable for constructing a normal value.

The commission highlights that Dalian Steelforce's records for the production of like goods include the following items:

- raw materials, being HRC (black and pre-galvanised)
- other materials
- direct labour
- manufacturing overheads
- an offset for scrap.

The vast majority of the Dalian Steelforce's overall costs of production relate to HRC, representing approximately 91%. HRC costs therefore are most relevant the commission's assessment of whether Dalian Steelforce's records reflect competitive market costs. The commission has examined in **Non-confidential Appendix A6.2** the degree to which particular market situation impacts on HRC prices in the Chinese domestic market.

Noting the commission's finding that a particular market situation exists in respect of like goods in China, the commission compared Dalian Steelforce's recorded HRC costs to a competitive international benchmark unaffected by the particular market situation. The purpose was to assist the commission's determination of whether Dalian Steelforce's recorded HRC cost is a competitive market cost suitable for constructing a normal value.

The commission has established the competitive international benchmark based on HRC prices provided by Korean and Taiwanese exporters during the inquiry. From previous cases, the commission considers that the particular market situation is absent and normal competitive market conditions prevail in the domestic markets for HRC in Korea and Taiwan. HRC costs in China do not influence purchases in these markets.¹⁷⁹

The commission considers that the difference between the HRC prices for Korea and Taiwan and Dalian Steelforce's recorded HRC cost is an indicator of the level of distortion of HRC cost in China caused by the particular market situation.

The commission considers that the competitive international benchmark is indicative of a competitive market cost unaffected by the same particular market situation in respect of the like goods in China. The competitive international benchmark indicates that the HRC cost in such a competitive market, after allowing for differences that might affect the comparison, were materially higher during the inquiry period than the HRC cost recorded in Dalian Steelforce's records.

The commission considers that the HRC cost in the records of Dalian Steelforce reflect the impact of the particular market situation to a degree that is not insignificant. The

¹⁷⁹ See REP 529 available on the commission's website.

commission considers that the programs and policies of the GOC together with the other interventions in the steel market have lowered the price and cost of HRC in China. This induced and allowed producers of the goods and like goods in China, including Dalian Steelforce, to produce and supply more like goods at a lower price point than otherwise possible.

The commission considers that this lowered price of HRC in Dalian Steelforce's records do not reflect competitive market prices but rather reflect market conditions that are not normal and ordinary.

The commission is therefore satisfied that while the HRC cost recorded in Dalian Steelforce's records may reasonably reflect the costs associated with the production or manufacture of the goods, because of the particular market situation, they do not reasonably reflect competitive market costs associated with the production or manufacture of the goods and are therefore unsuitable for the purpose of constructing normal value.

The commission has adjusted the recorded HRC costs for Dalian Steelforce on the basis that they did not reasonably reflect competitive market costs absent the market situation.

In doing so, the commission has considered the individual circumstances of Dalian Steelforce's purchases of HRC and has ensured that Dalian Steelforce's adjusted records reasonably reflect costs in China absent the particular market situation.

The commission has not adjusted any of the other items recorded in Dalian Steelforce's cost of production.

C4 Calculation of the raw material cost adjustment

The commission has determined the adjusted HRC cost for Dalian Steelforce by comparing the above competitive international benchmark cost to Dalian Steelforce's actual costs, and applying the resulting variation as an adjustment to its records.

Specifically, the commission calculated an adjustment for each quarter based on the difference between:

- a benchmark HRC cost for each quarter (based on monthly HRC price data for Korean and Taiwanese exporters examined in the inquiry)
- Dalian Steelforce's actual HRC cost for each quarter (based on the weighted average of actual prices paid by Dalian Steelforce to its HRC suppliers in that quarter).

Confidential Attachment 30 provides the commission's benchmark analysis.

APPENDIX D ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS – CHINA

D1 Introduction

D1.1 Definition of Government, public and private bodies

In its assessment of each program, the commission has had regard to the entity responsible for providing the financial contribution (if any) under the relevant program, as part of the test under section 269T(1) for determining whether a financial contribution is a subsidy. Under section 269T(1), for a contribution to be a subsidy, the following must provide the contribution:

- a government of the country of export or country of origin of the goods
- a public body of that country or a public body of which that government is a member
- a private body entrusted or directed by that government or public body to carry out a governmental function.

D1.2 Government

As described in section 16.2 of the Manual, the commission considers that the term ‘government’ includes government at all different levels, including at a national and sub-national level.

D1.3 Public bodies

The Act does not define the term ‘public body’. Determining whether an entity is a ‘public body’ requires evaluation of all available evidence of the entity’s features and its relationship with government, including the following:

- (1) The objectives and functions performed by the body and whether the entity in question is pursuing public policy objectives. In this regard relevant factors include:
 - legislation and other legal instruments
 - the degree of separation and independence of the entity from a government, including the appointment of directors
 - the contribution that an entity makes to the pursuit of government policies or interests, such as taking into account national or regional economic interests and the promotion of social objectives.
- (2) The body’s ownership and management structure, such as whether the body is wholly or part-owned by the government or has a majority of shares in the body. A finding that a body is a public body may be supported through:
 - the government’s ability to make appointments
 - the right of government to review results and determine the body’s objectives
 - the government’s involvement in investment or business decisions.

The commission considers this approach is consistent with the WTO Appellate Body decision of *United States – Countervailing Measures (China)*¹⁸⁰ In that case the Appellate body referred to the following 3 indicia which may assist in assessing whether an entity was a public body vested with or exercising government authority:

- where a statute or other legal instrument expressly vests government authority in the entity concerned
- where there is evidence that an entity is, in fact, exercising governmental functions
- where there is evidence that a government exercises meaning control over an entity and exercises governmental authority in the performance of government functions.

The Federal Court of Australia has also previously considered these principles.¹⁸¹

D1.4 Private bodies

Where an entity is neither a government nor public body, the commission will consider it a private body, in which case, a government direction to make a financial contribution in respect of the goods must be established in order for the contribution to be considered a subsidy, as defined by section 269T(1).

Pursuant to section 16.3 of the Manual, in determining the character of an entity that may have provided a financial contribution, the commission will consider whether a private body has been:

- ‘entrusted’ to carry out a government function, which occurs when a government gives responsibility to a private body, or
- ‘directed’ to carry out a government function, which occurs in situations where the government exercises its authority over a private body.

Accordingly, not all government acts are entrusting or directing a private body. Encouragement or mere policy announcements by government of themselves are not sufficient to satisfy this test. However, threats and inducements may be evidence of entrustment or inducements. This test is satisfied where the private body is a proxy by government to give effect to financial contributions.

¹⁸⁰ DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

¹⁸¹ See *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, [27] - [70]; *Dalian Steelforce Hi Tech Co Ltd V Minister for Home Affairs* [2015] FCA 885, [50] - [73].

D2 Assessment of Programs

D2.1 Program 20: Hot rolled steel provided by government at less than fair market value

There is no single legislative authority or policy establishing Program 20. Rather, the commission considers Program 20 as a collective term to describe conditions within the Chinese HRC market under which Chinese state-owned enterprises provide HRC at a price lower than a market benchmark. These conditions are discussed in **Non-confidential APPENDIX A**.

There are 3 elements required in order for a subsidy to be provided under Program 20:

- the provision of raw materials
- the provision of those raw materials by a public body
- the provision of those raw materials at LTAR.

The commission considers that purchases of HRC by Chinese manufacturers of the goods from SOEs satisfies the first 2 criteria.

The Commission considers that its analysis in **Non-confidential APPENDIX A** describes how SOEs operate in the Chinese steel market and industry. In particular, the analysis shows that;

- the Chinese steel industry is an industry of national strategic importance, which is influenced by the GOC
- the Chinese steel industry is a vehicle to promulgate the government's directives, objectives, reforms and mission.

While the commission notes that mixed-ownership (SOE) reform is an ongoing feature of the Chinese steel industry, the information before the commission does not suggest that mixed-ownership results in a greater degree of market orientation, which offsets or diminishes the influence of the GOC when it is a shareholder.

The Commission considers that the GOC, as a shareholder in a steel mill, has direct influence over the operations of that mill. As steel mills in China, regardless of ownership, are already subject to the directives, plans and guidelines of the central government, the Commission considers that the role of the GOC as shareholder serves to strengthen compliance with, and serve the direction of, the central government. In the absence of relevant information held but not provided by the GOC and in light of all available information, the Commission concludes that Chinese steel mills, whether wholly or partially owned by the GOC, possess, exercise and are vested with governmental authority and are therefore public bodies.

Chinese entities were asked to provide details on their raw material purchases and whether the suppliers of those raw materials were private enterprises or SOEs.

The commission then determined whether a benefit was provided in respect of those HRC purchases by calculating the difference between the prices paid by manufacturers to SOEs and what is determined to be adequate remuneration for HRC.

The commission has used as benchmark for adequate remuneration the competitive international benchmark based on HRC prices provided by Korean and Taiwanese exporters during the inquiry discussed in **Appendix C3**.

For the purposes of determining whether Program 20 conferred a benefit to Hengshui Jinghua and Tianjin Ruitong, the commission has found that:

- pursuant to section 269TACC(3)(d), in relation to the goods exported to Australia from China, HRC was provided for LTAR
- pursuant to section 269TACC(4), the benchmark of verified actual HRC costs for HSS exporters from Korea and Taiwan is suitable for determining the adequacy of remuneration having regard to the prevailing market conditions in the Chinese HRC market.



D2.2 Assessment of all other Programs

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 1 Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones	<p>The purpose of this subsidy is to absorb foreign investment and expand the open-up policy and enhance development of designated areas.</p> <p>This program was found to be countervailable in REP 419.</p> <p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program.¹⁸²</p>	<p>Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991)</p> <p>Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991)</p> <p>State Administration of Taxation (SAT) Circular Guo Shui Fa No.139 of 1995</p> <p>SAT Circular Guo Shui Fa No.135 of 2003</p>	<p>Enterprises with foreign investment of a production nature established in the economic and technological development zones shall be levied at the reduced income tax rate of 15%.</p> <p>Enterprises with foreign investment of a production nature established in the coastal economic open areas and in the old urban districts of cities where the economic and technological development zones are located and which are engaged in the following projects:</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>Due to the nature of this program (reduced income tax rate) it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in</p>	<p>The commission considers that this subsidy is limited to enterprises established in the economic and technological development zones and in the coastal economic open areas.</p> <p>The commission also considers that this subsidy targets enterprises with foreign investment.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p>

¹⁸² Available on the commission website

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 8).	<p>Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>State Council Circular Guo Fa No.39 of 2007.</p> <p>This program is administered by MOF, SAT, Ministry of Commerce (MOFCOM), MOST.</p>	<p>technology-intensive or knowledge-intensive projects, with major products listed in the 'Catalogue of High and New Technology Products of China' promulgated by MOST and the sales revenue of these products of a year accounting for over 50% of the total annual sales revenue of the enterprise of that year</p> <p>projects with foreign investments of over US\$30 million and having long periods for return on investment</p> <p>energy resources, transportation and port construction projects, shall be levied at the reduced income tax rate of 15%.</p>	<p>relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p>Program 2</p> <p>One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'</p>	<p>This program was found to be countervailable in REP 419 (Program 2), and prior to that in REP 316 (Program 7).</p> <p>The commission is not aware of any WTO</p>	<p>Decision Concerning Commending and/or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of 'China Worldwide Famous Brand', 'China Famous Brand', or</p>	<p>Enterprises whose products qualify for the Title of 'China Worldwide Famous Brand'.</p> <p>Enterprises whose products qualify for the Title of 'China well-known brand' and/or 'famous</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution</p>	<p>This program is limited to enterprises in the Guangdong Province whose products qualify for the title of 'China worldwide famous brand', 'China well-known brand' and/or 'China famous brand'.</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	notification of this program.	<p>'China Well-Known Brand'</p> <p>The government of Guangdong Province is responsible for the administration and management of this program.</p>	trademark (China famous Trademark)'.	<p>would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3). /</p>
<p>Program 5</p> <p>Matching Funds for International Market Development for Small and Medium Enterprises</p>	<p>This program was found to be countervailable in REP 419 (Program 5), and prior to that in REP 316 (Program 8).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p><i>Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises.</i></p> <p>The program is administered by the</p>	<p>SME enterprises that have:</p> <p>a legal personality according to law</p> <p>the capacity to manage an import or export business</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in</p>	<p>The commission considers that this program is limited to small and medium enterprises involved in foreign trade.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		MOF and MOFCOM, with the assistance of other competent authorities, and is implemented by the local finance and foreign trade authorities in their respective jurisdictions.	made exports in the previous year of 15,000,000 (before 2010) or 45,000,000 (after 2010) US dollars or less sound financial management systems and records employees who specialise in foreign trade and economic business who possess the basic skills of foreign trade and economics a solid market development plan.	connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia). The commission considers that this constitutes a benefit in relation to the goods exported to Australia. The financial contributions made under this program meet the definition of a subsidy under section 269T.	under section 269TAAC(2)(a). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 6 Superstar Enterprise Grant	This program was found to be countervailable in REP 419 (Program 6), and prior to that in REP 316 (Program 9). The commission is not aware of any WTO notification of this program.	Measures for Assessment and Encouragement of Superstar Enterprises and Excellent Enterprises Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises, Excellent Enterprises and Backbone Enterprises. This program is administered by the	Enterprises located in Huzhou City that satisfy the following criteria: (a) The 'output scale' of the enterprises must meet one of the following criteria: business income of the current year not exceeding RMB 3.5 billion and sales	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government. Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise	This program is limited to enterprises in Huzhou City meeting the specified 'output scale'. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		Huzhou Economic Committee.	<p>revenue within the city exceeding RMB 2 billion</p> <p>sales revenue within the city exceeding RMB 2.5 billion</p> <p>sales revenue within the city exceeding RMB 1.5 billion where the increase of sales revenue between 2007 and 008 was more than 30% and the increased paid up tax between 2007 and 2008 was more than RMB 10 million</p> <p>revenue from self-export of current year is more than USD 150 million.</p> <p>(b) The enterprise's accumulated industrial input between the years 2006 to 2008 must have exceeded RMB 150 million</p> <p>(c) The enterprise must be profitable, and its VAT 'paid up', while its consumption tax, income tax, business</p>	<p>(including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>tax, city construction tax and education supplementary tax must exceed RMB 30 million</p> <p>(d) The enterprise must not have suffered environmental or 'unsafe production accidents (or other illegal incidents) in the current year</p> <p>(e) If the enterprise is not state-owned, it must have passed the 'Five-Good Enterprises' assessment conducted by its county or district.</p>		
Program 7 Research & Development (R&D) Assistance Grant	<p>This program was found to be countervailable in REP 419 (Program 7), and prior to that in REP 316 (Program 10).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Notice of the Office of People's Government of Wuxing District on Publishing and Issuing the Management Measures on Three Types of Science and Technology Expenses of Wuxing District.</p> <p>The GOC stated that the funding shall not be more than RMB150,000 and the duration for supporting an</p>	<p>In REP 316, the GOC stated that to qualify for this grant, applicant must meet the following requirements:</p> <p>register and operate in Jinzhou New District</p> <p>have complete organisational structure, R&D facilities and intellectual protection measures</p> <p>have definite direction and task for technology</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise</p>	<p>This program is limited to enterprises in Jinzhou New District with research and development facilities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>enterprise shall not be more than 3 years.</p> <p>The government of Wuxing district and the Science and Technology Bureau of Wuxing District are jointly responsible for the administration of this program.</p>	<p>development and technology research and have independent assets and funds</p> <p>have a technology team with strong capacities to do research and development</p> <p>have more than one patent or science and technology project of municipal level and above.</p> <p>The GOC provided further information stating that the purpose of the grant is to accelerate the transformation of the economic development pattern and economic restructure of Jinzhou New District, enhance the capacity of self-dependent innovation of the district, implementing the strategy on 'innovative Urban District', and making efforts to achieve the sound and rapid economy development of Jinzhou New District.</p>	<p>(including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 8	This program was found to be countervailable in REP 419 (Program 8),	Regulatory instrument:	The award is granted to enterprises that have an 'innovations and utility	Grants provided under this program are financial contributions by a	This program is limited to enterprises in Guangdong Province that have an

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Patent Award of Guangdong Province	<p>and prior to that in REP 316 (Program 34).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>2009 Guangdong Patent Award Implementation Proposal.</p> <p>Administered by the Guangdong Province Department of Intellectual Property and Department of Personnel.</p>	<p>models' or an 'industrial design' patent.</p> <p>An application under the 'innovations and utility models' patent category must establish that:</p> <ul style="list-style-type: none"> the production in question is skillfully constructed and innovative with high creation and technical level the product contributes to technical improvement and creation the patent has created or has the potential to bring significant economic or social benefit the patent holder has significantly protected the patent. <p>An application under the industrial design category must establish that:</p> <ul style="list-style-type: none"> the industrial design has reached high level 	<p>government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>'innovations and utility models' or an 'industrial design' patent.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>at shape, pattern and colour</p> <p>application of this industrial design has brought or has the potential to bring significant economic or social benefit</p> <p>the patent holder has significantly protected the patent.</p>		
<p>Program 10</p> <p>Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years</p>	<p>This program was found to be countervailable in REP 419 (Program 10).</p> <p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program.</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 1)</p>	<p>This subsidy is granted under the following legislation:</p> <p>Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991)</p> <p>Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise (1991)</p> <p>State Council Circular Guo Fa No. 37 of 2000</p>	<p>This subsidy is provided to any enterprise with foreign investment of a production nature to operate for a period of no less than 10 years shall, from the year beginning to make profit, be exempted from the enterprise income tax in the first and second years and allowed a reduction by half in the third to the fifth years ('2 years of exemption and 3 years of reduction by half').</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered a financial contribution made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in</p>	<p>This program is limited to enterprises with foreign investment of a production nature.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>State Council Circular Guo Fa No. 39 of 2007</p> <p>MOF Circular Cai Shui No. 1 of 2008.</p> <p>This program is authorised by: MOF, State Administration of Taxation, MOFCOM.</p>		<p>relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 11</p> <p>Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)</p>	<p>This program was found to be countervailable in REP 419 (Program 11).</p> <p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program.</p>	<p>The legal basis to establish this subsidy is pursuant to the following:</p> <p>Article 7 of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991)</p> <p>Articles 69 and 75 of the Rules for the Implementation of the Income Tax Law of the</p>	<p>This program is available to enterprises with foreign investment established in the Hainan Special Economic Zones and engaged in infrastructure projects such as airports, harbours, docks, highways, railways, power stations, coal mines and water conservation projects, and enterprises with foreign investment engaged in the development of and</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered that a financial contribution made in connection to the production, manufacture or export of all goods of the recipient enterprise</p>	<p>This program is limited to enterprises with foreign investment in the Hainan Special Economic Zones.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 1) and G/SCM/N/343/CHN (Program 2).	<p>People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991)</p> <p>SAT Circular Guo Shui Fa No.139 of 1995</p> <p>SAT Circular Guo Shui Fa No.135 of 2003</p> <p>Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>State Council Circular Guo Fa No.39 of 2007</p> <p>State Council Circular Guo Fa No.40 of 2007.</p> <p>This program is authorised by: MOF, State Administration of Taxation, MOFCOM.</p>	operations in agriculture with an operation period of no less than fifteen years.	<p>(including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 12 Preferential Tax Policies for Enterprises with	This program was found to be countervailable in REP 419 (Program 12).	The legal basis to establish this subsidy is pursuant to the following:	This program is available to enterprises with foreign investment of a production nature	The reduced income tax rate under this program is a financial contribution by a government which	This program is limited to enterprises with foreign

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Foreign Investment Established in Pudong area of Shanghai	<p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program.</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 9) and G/SCM/N/343/CHN (Program 3).</p>	<p>Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>State Council Circular Guo Fa No.39 of 2007</p> <p>State Council Circular Guo Fa No.40 of 2007.</p> <p>This program is authorised by MOF and SAT.</p>	established in Pudong area of Shanghai and enterprises with foreign investment engaged in energy resources and transport construction projects such as airport, ports, railways, highways and power stations.	<p>involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered a financial contribution would made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>investment in the Pudong area of Shanghai.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 13 Preferential Tax Policies in the Western Regions	The policy objective and/or purpose of this subsidy is to accelerate the development of the western regions, expand the opening up, lessen the imbalance of economic development	<p>The legal basis to establish this subsidy is pursuant to the following:</p> <p>Circular of the State Council Guo Fa No. 33 of 2000, Circular of the State Council Guo Ban</p>	<p>The subsidy is provided to:</p> <p>1) Enterprises established in the western regions which have the items included in the Catalogue of</p>	<p>This program is limited to enterprises with foreign investment in the Pudong area of Shanghai.</p> <p>It provides preferential tax treatment in the form of a</p>	<p>This program is limited to enterprises engaged in particular industries and businesses in the western region.</p> <p>The commission is satisfied that this meets</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	<p>among different areas and promote the development of the regions.</p> <p>This program was found to be countervailable in REP 419 (Program 13), and prior to that in REP 316 (Program 3).</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 11) G/SCM/N/315/CHN (Program 1.4) and G/SCM/N/343/CHN (Program 4).</p>	<p>Fa No. 73 of 2001, Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007)</p> <p>MOF GACC SAT Announcement No.43 of 2008</p> <p>MOF Circular Cai Shui No.58 of 2011</p> <p>MOF Circular Cai Shui No.4 of 2013</p> <p>Catalogue of Encouraged Industries in Central and Western Regions Fa Gai Wei No.15 of 2014</p> <p>State Council Circular Guo Fa No. 39 of 2007</p> <p>MOF Circular Cai Shui No.1 of 2008</p> <p>The program is authorised by MOF, State Administration of Taxation, MOFCOM and</p>	<p>Encouraged Industries in Central and Western Regions as their major business with the income from that major business accounting for over 70% of total revenue of the current year</p> <p>2) The domestic and foreign-invested enterprises which are newly established in the western regions before 31 December 2010 and engaged in business such as transportation, electric power, water conservancy, postal service, radio and television, enjoying 'two years of exemption and 3 years of reduction by half' in accordance with Circular Cai Shui No. 202 of 2001, MOF, SAT, GACC, Circular on Preferential Tax Treatment Policy of Western Regions Development</p> <p>3) The imported equipment for self-use within the total amount of the capital invested by domestic enterprises</p>	<p>reduced tax rate to eligible enterprises.</p> <p>The reduced income tax rate is considered a financial contribution would made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		other relevant authorities under the State Council.	established in the western regions and engaged in the encouraged industries or by foreign-invested enterprises established in the western regions and engaged in the encouraged or advantageous industries, except for those listed in the Catalogue for the Imported Products not Subject to Tax Exemption in Foreign Invested Projects, the Catalogue for the Imported Products not Subject to Tax Exemption in Domestic Invested Projects, or the Catalogue for the Imported Major Technical Equipment and Products not Subject to Tax Exemption.		
Program 14 Tariff and VAT Exemptions on Imported Materials and Equipment	This program was found to be countervailable in REP 419 (Program 14), and prior to that in REP 316 (Program 6). Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 61).	Regulatory instrument: Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment (Guo Fa [1997] No. 37) Catalogue of Industries for Guiding Foreign Investment	Under Articles 1 and 2 of the <i>Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment</i> (Guo Fa [1997] No. 37) to be eligible for this program: the enterprise must be an FIE which falls in the 'encouraged' or 'restricted' categories in	The commission considers that the tariff and VAT exemptions under this program is a financial contribution by the GOC which involves the forgoing or not collecting of revenue by a government. Due to the nature of this program it is considered that a financial	This program is limited to foreign invested enterprises that fall in the category of 'encouraged' or 'restricted' enterprises of the FIE catalogues, or domestic invested enterprises that fall under the DIE catalogue. The commission is satisfied that this meets the criteria of a

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>Catalogue of Industry, Product and Technology Key Supported by the State at Present (2004)</p> <p>State Council's Import Goods Not Exempted from Taxation for Foreign Investment Projects Catalogue</p> <p>Import Goods Not Exempted from Taxation for Domestic Investment Projects Catalogue.</p> <p>The program appears to operate on a national level. The commission NDRC or its provincial branches issue certificates under this program, while local customs authorities administer the VAT and tariff exemptions.</p>	<p>the <i>Catalogue of Industries for Guiding Foreign Investment</i> (2004) (until 30 November 2007) or the <i>Catalogue of Industries for Guiding Foreign Investment</i> (2007) (after 1 December 2007)</p> <p>the imported equipment which is sought to be exempt from tariff and/or VAT must be for the enterprise's own use and not fall in the State Council's <i>Import Goods Not Exempted from Taxation for Foreign Investment Projects Catalogue</i> and</p> <p>the total value of the purchase must not exceed the investment 'cap'</p> <p>or</p> <p>the enterprise must be a domestic invested enterprise (DIE) which falls in the <i>Catalogue of Industry, Product and Technology Key Supported by the State at Present</i> (2004) and the imported equipment</p>	<p>contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>must be for the enterprises own use and not fall in <i>the Import Goods Not Exempted from Taxation for Domestic Investment projects catalogue</i></p> <p>the total value of the purchase must not exceed the investment 'cap'.</p>		
<p>Program 15</p> <p>Innovative Experimental Enterprise Grant</p>	<p>This program was found to be countervailable in REP 419 (Program 15), and prior to that in REP 316 (Program 11).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises.</p> <p>Administered by the administrative office of Science and Technology Bureau of Zhejiang province.</p>	<p>Eligible enterprises are those that are located in Zhejiang Province, and are:</p> <p>independent economic entities with 'reasonable asset-liability ratios', consistent earnings over the past 3 years, and an increasing market share</p> <p>well placed to undertake research and development activities with a provincial or new and high-tech technology centre available, and proven relationships with colleges and scientific research centres</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is limited to enterprises engaged in research and development and technological innovation and protection in Zhejiang province.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>investing at least 5% of annual sales income</p> <p>using intellectual property rights to protect major products</p> <p>strongly committed to technological innovation and protection with previous technological achievements.</p>	The financial contributions made under this program meet the definition of a subsidy under section 269T.	administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p>Program 16</p> <p>Special Support Fund for Non State-Owned Enterprises</p>	<p>This program was found to be countervailable in REP 419 (Program 16), and prior to that in REP 316 (Program 12).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Notions concerning accelerating the growth of the non-state-owned economy, 18 April 2003.</p>	Non-SOEs located in Yunnan Province.	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is limited to non-SOEs located in Yunnan province.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 17 Venture Investment Fund of Hi-Tech Industry	<p>This program was found to be countervailable in REP 419 (Program 17), and prior to that in REP 316 (Program 13).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Circular of Chongqing People's Government Office on Temporary Administration Measures on Venture Investment Fund of Hi-tech Industry in Chongqing.</p> <p>The program is administered by the Chongqing Venture Investment Fund.</p>	<p>Enterprises with 'high-tech programs' located in the High-Tech Zone or the High-Tech Park of the new Northern District.</p> <p>In addition:</p> <p>the program must have a leading technological position in its field, and sufficient experience to enter the industrialisation development phase (industrialisation programs with intellectual property rights are given priority)</p> <p>the product must be of high quality and have potential economic benefit to the collective development of the Chongqing High-Tech Industry Zone</p> <p>the department supporting the program</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises with 'high-tech programs' located in the High-Tech Zone or the High-Tech Park of the new Northern District.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>must have good credit, excellent operation mechanisms and strong innovation abilities</p> <p>the enterprise must have good legal standing</p> <p>the total investment in the program must be RMB 100 million or more.</p>		to specificity in section 269TAAC(3).
<p>Program 18</p> <p>Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment</p>	<p>This program was found to be countervailable in REP 419 (Program 18), and prior to that in REP 316 (Program 14).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Provisions of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters.</p> <p>Administered by the local commerce authority of Guangzhou.</p>	<p>This program is available to enterprises whose headquarters are established in the Guangzhou Municipality by a foreign investor.</p> <p>To qualify as 'Headquarters' the facility must control all the operations and management of any enterprises it is invested in, both in China and internationally.</p> <p>Only one enterprise Headquarters is permitted in the Guangzhou Municipality.</p> <p>To qualify as 'Regional Headquarters', the facility must control operations</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is limited to enterprises whose headquarters are established in the Guangzhou Municipality by a foreign investor.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			and management of some or all enterprises it is invested in a certain area of China. Headquarters or Regional headquarters may be of investment companies, management companies, research and development centres, and production enterprises.		administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 19 Grant for key enterprises in equipment manufacturing industry of Zhongshan	This program was found to be countervailable in REP 419 (Program 19), and prior to that in REP 316 (Program 15). The commission is not aware of any WTO notification of this program.	Regulatory Instrument: Notice of Issuing 'Method for Determination of Key Enterprises in Equipment Manufacturing Industry of Zhongshan,' Zhong Fu (2005) No.127. The program is administered by the local economic and trade office, by the Municipal Economic and Trade Bureau and by the Municipal Leading Group of Accelerating Development of Equipment Manufacturing Industry of Zhongshan City.	For an enterprise to be eligible for this program: it must be established, registered and carrying out business in Zhongshan City its primary product must be part of the equipment manufacturing industry and comply with the relevant industrial policies it must have assets over RMB 30 million, annual sales income of over RMB 50 million and annual paid-in tax of over RMB 3 million or, alternatively, the enterprise's main	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government. Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia). The commission considers that this constitutes a benefit in relation to the goods exported to Australia.	This program is limited to enterprises whose primary product must be a part of the equipment manufacturing industry and established, registered and carrying out business in Zhongshan City. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application,

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>economic and technical indices must be at the forefront of the equipment manufacturing industry in the country or province, and have potential for additional development</p> <p>it must have implemented a brand strategy, established a technical centre for research and development and be comparatively strong in its capacity for independent development and technical innovation</p> <p>it must have good credit standing.</p>	The financial contributions made under this program meet the definition of a subsidy under section 269T.	or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 20 Hot rolled steel provided by government at less than fair market value	See Appendix D2.1 above.				
Program 21 Water Conservancy Fund Deduction	This program was found to be countervailable in REP 419 (Program 21), and prior to that in REP 316 (Program 16).	Regulatory Instrument: Notification of Relevant Problems of Further Strengthening Water Conservancy Fund	The GOC has confirmed that only enterprises satisfying one of following criteria will eligible for the grant under this program:	Grants provided under this program are financial contributions by a government which involve	This program is limited to enterprises located in Zhejiang province that satisfy one of the specific criteria.

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	<p>The commission is not aware of any WTO notification of this program.</p>	<p>Deduction Administration of Zhejiang Province Local Taxation Bureau (ZheDiShuiFa [2007] No.63).</p> <p>This program is administered by the Local Taxation Bureau of Zhejiang Province and it is implemented by the competent local taxation authorities of the municipal and county levels in Zhejiang Province.</p>	<p>Provide job opportunities to laid-off workers, the disabled, and retired soldiers searching for jobs.</p> <p>Enterprises that 'utilize resource comprehensively as designated by government department above municipal level'.</p> <p>Trading enterprises of commodities with annual gross profit rate of less than 5%.</p> <p>Enterprises undertaking 'State reserve and sale, the portion of revenues incurred from that undertaking may qualify for an exemption of the fee'.</p> <p>'Advanced manufacturing enterprises' or key enterprises as designated by the municipal government, which are undertaking technology development projects and incurring development expenditure at an</p>	<p>the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>amount above RMB1 million.</p> <p>'Insurance company's revenue from sales which are subject to exemption of excise tax'.</p> <p>'Bank's revenue from turnovers between banks'.</p> <p>'Revenue from sales between members of an enterprise group subject to same consolidated financial statement'.</p>		
<p>Program 22</p> <p>Wuxing District Freight Assistance</p>	<p>This program was found to be countervailable in REP 419 (Program 22), and prior to that in REP 316 (Program 35).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Several Opinions On Further Supporting Industrial Sector To Separate And Develop Producer-Service Industry (HuZhengBanFa [2008] 109).</p> <p>This program is administered by the Finance Bureau of Huzhou City.</p>	<p>Those enterprises whose annual freight cost is RMB 3 million or above, will be refunded 50% of the increase in the annual turnover tax which is paid locally by the transportation business and which is retained by the city. This increase is measured over the amount of tax paid in 2007.</p> <p>For enterprises whose annually paid income tax is RMB100,000 or above:</p>	<p>The refunded income tax and turnover tax under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The refunded income tax and turnover tax is based on annual freight cost. It is considered that this financial contribution would be made in connection to the export of all goods of the recipient enterprise</p>	<p>This program is limited to enterprises whose annual freight cost is RMB 3 million or above located in Wuxing district.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>100% of the income tax paid by the 'separated enterprise' and retained by the city will be granted as assistance in each of the 3 years after the establishment date of the separated enterprise.</p> <p>50% of the turnover tax paid by the separated enterprise and retained by the city will be granted as assistance in each of the 3 years after the establishment date of the separated enterprise.</p>	<p>(including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 23</p> <p>Huzhou City Public Listing Grant</p>	<p>This program was found to be countervailable in REP 419 (Program 23), and prior to that in REP 316 (Program 36).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p><i>Notification of Government of Huzhou City (HuBan No.160).</i></p> <p>This program is administrated by the Finance Bureau of Huzhou City.</p>	<p>This program is available to enterprises that successfully completed listing of shares during 2010.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p>	<p>This program is limited to enterprises in Huzhou City that successfully completed listing of shares during 2010.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 27</p> <p>Huzhou City Quality Award</p>	<p>This program was found to be countervailable in REP 419 (Program 27), and prior to that in REP 316 (Program 37).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Notification of the Office of People's Government of Huzhou City (HuZhengBanFa No.60).</p> <p>The Government of Huzhou City and the Bureau for Quality and Technical Supervision are jointly responsible for the administration of this program.</p>	<p>The award is granted to no more than 3 enterprises each year that are registered in Huzhou City and have been in operation for more than 3 years and that have 'enjoyed excellent performance', 'implemented quality management' and 'obtained a leading position in industry with significant economic benefits and social benefits'.</p> <p>The products of an applicant must also meet the standards provided by laws and regulations regarding product safety, environmental protection,</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is awarded to no more than 3 enterprises each year located in Huzhou City and have excellent performance, implemented quality management and an industry leader with significant economic and social benefits.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			field safety as well as relevant industrial policy.		particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 28 Huzhou Industry Enterprise Transformation & Upgrade Development Fund	<p>This program was found to be countervailable in REP 419 (Program 28), and prior to that in REP 316 (Program 38).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>The purpose of the program is to promote industrial structure adjustment and upgrading, and to support technology updating and innovation of enterprises.</p> <p>In REP 316, the GOC advised that there is no single purpose legal document directly related to any benefit received by a respondent under investigation.</p> <p>The Bureau of Finance and the Economic and Information Committee of Huzhou City are jointly responsible for the administration of this program. The Bureau of</p>	<p>This program is limited to enterprises registered in Huzhou and encourages the transformation and upgrade of enterprises, 'including but not limited to industry upgrades, and to promote equipment manufacturing industry, high and new technology industry and new industry'.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in</p>	<p>This program is limited to enterprises which encourages the transformation and upgrade of enterprises and registered in Huzhou.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		Finance and the Economic and Information Committee of Huzhou City examine and approve applications, with the funds provided from the budget of the Financial Bureau of Huzhou City.		relation to the goods exported to Australia.	strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 29 Land Use Tax Deduction	<p>This program provides for the reduction or exemption of land use taxes for high and new technology enterprises.</p> <p>This program was found to be countervailable in REP 419 (Program 29), and prior to that in REP 316 (Program 4).</p> <p>This program was identified as having received by a cooperative exporter in REP 419.</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Approval of Tax (Expense) Deduction (ZhengDiCaShui [2010] No.11581).</p> <p>This program is administered by Huzhou City Local Taxation Bureau and Wuxing Sub-Bureau.</p>	This program is available to new high and new technology enterprises within 3 years of their establishment.	<p>The commission considers that the reduction in land use tax provided under this program is a financial contribution by the GOC which involves the forgoing of land use tax revenue otherwise due to the GOC.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in</p>	<p>This program is limited to high and new technology enterprises that are less than 3 years old.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 30</p> <p>Wuxing District Public Listing Grant</p>	<p>This program was found to be countervailable in REP 419 (Program 30), and prior to that in REP 316 (Program 39).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Notification on Awarding Advanced Individuals and Advanced Entities of Industrial Economy and Open Economy for the Year of 2010 (WuWeiFa [2011] No.14).</p> <p>This program is administered by the Government of Wuxing District.</p>	<p>A grant is available to eligible advanced publicly listed enterprises.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a</p>	<p>This program is limited to eligible advanced publicly listed enterprises in Wuxing District.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				subsidy under section 269T.	to specificity in section 269TAAC(3).
Program 31 Anti-dumping Respondent Assistance	<p>This program was found to be countervailable in REP 419 (Program 31), and prior to that in REP 316 (Program 17).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Notification of Receiving Fair Trade Assistance by Wuxing Foreign Economic and Trade Bureau.</p> <p>This program is administrated by Wuxing District Foreign Economic and Trade Bureau.</p>	Enterprises which incur expenses in an anti-dumping proceeding may benefit from this program.	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>However, the commission, after reviewing its previous anti-dumping investigations, is satisfied that any contribution received under this program is not in respect of the export of the goods to Australia, as this is the first such case into the goods.</p> <p>In light of the above, the commission has determined that no subsidy was provided</p>	N/A

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				under this program in respect of the goods during the inquiry period.	
Program 32 Technology Project Assistance	<p>This program was found to be countervailable in REP 419 (Program 32), and prior to that in REP 316 (Program 18).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Interim Measure for Administration of Post-completion Assistance or Loan Interest Grant for Industrialization of Science and Technology Achievements Sponsored by Zhejiang Province (2008).</p> <p>The Bureau of Finance and the Science and Technology Bureau of Huzhou City are jointly responsible for the administration of this program.</p>	<p>This program is available to enterprises that undertake a scientific research project which meets the scope of the projects encouraged under this program.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises that undertake a scientific research project encouraged under this program.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>As the GOC did not provide a response to the commission's questionnaire, the commission does not consider that section 269TAAC(3) applies.</p>
Program 34	<p>This program was found to be countervailable in REP 419 (Program 34),</p>	<p>In investigation 177, the GOC advised that there is</p>	<p>The program was a one-time grant provided to enterprises in the</p>	<p>Grants provided under this program are financial contributions by a</p>	<p>This program is limited to enterprises that conducted successful</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
<p>Balidian Town Public Listing Award</p>	<p>and prior to that in REP 177 (Program 34).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>no relevant legislation governing this program.</p> <p>This program is administered by the Government of Wuxing District.</p>	<p>Kingland Pipeline Industrial Park, Wuxing District that conducted successful public listing of shares and investing funds raised through its public listing into a pipeline construction project in Wuxing.</p>	<p>government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>public listing of shares and investing funds raised through its public listing into a pipeline construction project in Wuxing.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 35	<p>This program reduces the income tax paid by high and new technology enterprises to 15% (from</p>	<p>This program is provided for in Article 28 of the <i>PRC</i> Enterprise Income Tax Law 2007, which</p>	<p>Companies recognised by the GOC as a high and new technology enterprise</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which</p>	<p>This program is limited to enterprises recognised by the GOC as a high and</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Preferential Tax Policies for High and New Technology Enterprises	<p>the standard enterprise income tax rate of 25%).</p> <p>This program was found to be countervailable in REP 419 (Program 35), and prior to that in REP 316 (Program 5).</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 6) G/SCM/N/315/CHN (Program 1.5) and G/SCM/N/343/CHN (Program 5).</p>	<p>states: 'With respect to a high and new technology enterprise that needs key support by the State, the tax levied on its income shall be reduced at a rate of 15%.'</p> <p>It is considered likely that this program is a national program, administered by the GOC's State Administration of Taxation.</p> <p>Article 28 of the Law of the People's Republic of China on Enterprise Income Tax (2007) Article 93 of the Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007) .</p> <p>This program is authorised by MOST, MOF, SAT.</p>	<p>are eligible for this program.</p> <p>To be recognised as a high and new technology enterprise, companies must meet certain criteria, submit an application, alongside copies of the company's business registration and other relevant documentation, and have the application approved by relevant authorities.</p>	<p>involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered a financial contribution made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>new technology enterprise.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 36 Local Tax Bureau Refund	<p>This program was found to be countervailable in REP 419 (Program 36), and prior to that in REP 379 (Program 36).</p>	<p>In REP 379, this program was administered by the local tax bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location,</p>	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The commission is satisfied that this meets</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	The commission is not aware of any WTO notification of this program.		employment and tax contributions to the local government.	<p>collecting of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 37 Return of Farmland Use Tax	<p>This program was found to be countervailable in REP 419 (Program 37), and prior to that in REP 379 (Program 37).</p> <p>The commission is not aware of any WTO notification of this program.</p>	In REP 379, this program was administered by the local tax bureau.	According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location, employment and tax contributions to the local government.	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 38</p> <p>Return of Land Transfer Fee</p>	<p>This program was found to be countervailable in REP 419 (Program 38), and prior to that in REP 379 (Program 38).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by the local tax bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location, employment and tax contributions to the local government.</p>	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 39</p> <p>Return of Land Transfer Fee From Shiyu</p>	<p>This program was found to be countervailable in REP 419 (Program 39), and prior to that in REP 379 (Program 39).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by the local tax bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location, employment and tax contributions to the local government.</p>	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				subsidy under section 269T.	to specificity in section 269TAAC(3).
Program 40 Dining lampblack governance subsidy of Jinghai County Environmental Protection Bureau	<p>This program was found to be countervailable in REP 419 (Program 40), and prior to that in REP 379 (Program 40).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Environment Protection Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 41 Discount interest fund for technological innovation	<p>This program was found to be countervailable in REP 419 (Program 41), and prior to that in REP 379 (Program 41).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Handan City Industry Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Handan City Industry Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 42 Energy conservation and emission reduction special fund project in 2015	<p>This program was found to be countervailable in REP 419 (Program 42), and prior to that in REP 379 (Program 42).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Daqiuizhuang Town Financial Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Daqiuizhuang Town Financial Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				subsidy under section 269T.	administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 43 Enterprise famous brand reward of Fengnan Finance Bureau	<p>This program was found to be countervailable in REP 419 (Program 43), and prior to that in REP 379 (Program 43).</p> <p>The commission is not aware of any WTO notification of this program.</p>	In REP 379, this program was administered by Fengnan District Science and Technology Bureau.	According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Fengnan District Science and Technology Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				subsidy under section 269T.	horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 44 Government subsidy for construction	<p>This program was found to be countervailable in REP 419 (Program 44), and prior to that in REP 379 (Program 44).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Handan City Local Tax Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Handan City Local Tax Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 45 Infrastructure Construction Costs Of Road In Front Of No.5 Factory	<p>This program was found to be countervailable in REP 419 (Program 45), and prior to that in REP 379 (Program 45).</p> <p>The commission is not aware of any WTO notification of this program.</p>	In REP 379, this program was administered by Jinghai County Local Tax Bureau.	According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Local Tax Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 46</p> <p>New Type Entrepreneur Cultivation Engineering Training Fee Of Jinghai County Science And Technology commission</p>	<p>This program was found to be countervailable in REP 419 (Program 46), and prior to that in REP 379 (Program 46).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Science and Technology Committee.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Science and Technology commission.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 47</p> <p>Subsidy for Coal-Fired Boiler of Fengnan Subtreasury</p>	<p>This program was found to be countervailable in REP 419 (Program 47), and prior to that in REP 379 (Program 47).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Fengnan District Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Fengnan District Environment Protection Bureau.</p> <p>The commission is satisfied that this meets</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>(including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p>Program 48</p> <p>Subsidy for Coal-Fired Boiler Rectification</p>	<p>This program was found to be countervailable in REP 419 (Program 48), and prior to that in REP 379 (Program 48).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Handan City Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Handan City</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>Environment Protection Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 49 Subsidy for District Level Technological Project	<p>This program was found to be countervailable in REP 419 (Program 49), and prior to that in REP 379 (Program 49).</p> <p>The commission is not aware of any WTO</p>	<p>In REP 379, this program was administered by Daqiuzhuang Town Science and Technology Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment,</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p>	<p>The commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	notification of this program.		facility construction and tax contributions to the local government.	<p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>limited to enterprises within the jurisdiction of the Daquiuzhuang Town Science and Technology Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 50 Subsidy For Pollution Control Of Fengnan	This program was found to be countervailable in REP 419 (Program 50),	In REP 379, this program was administered by Fengnan District	According to information provided by the cooperative exporter in REP 379, local authorities are responsible for	Grants provided under this program are financial contributions by a government which involve	The commission consider this program is available to enterprises that have conducted environment protection, facility

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Environmental Protection Bureau	and prior to that in REP 379 (Program 50). The commission is not aware of any WTO notification of this program.	Environment Protection Bureau.	determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.	the direct transfer of funds from that government. Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia). The commission considers that this constitutes a benefit in relation to the goods exported to Australia. The financial contributions made under this program meet the definition of a subsidy under section 269T.	construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Fengnan District Environment Protection Bureau. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 51	This program was found to be countervailable in	In REP 379, this program was administered by	According to information provided by the	Grants provided under this program are financial	The commission consider this program is available

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Subsidy from Science and Technology Bureau of Jinghai County	<p>REP 419 (Program 51), and prior to that in REP 379 (Program 51).</p> <p>The commission is not aware of any WTO notification of this program.</p>	Jinghai County Science and Technology Bureau.	cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.	<p>contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Science and Technology Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					to specificity in section 269TAAC(3).
Program 52 Subsidy of Environment Bureau transferred from Shiyu	<p>This program was found to be countervailable in REP 419 (Program 52), and prior to that in REP 379 (Program 52).</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission considers this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Environment Protection Bureau.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 53 Supporting fund for exhibition from Hongqiao District Commerce Commission	This program was found to be countervailable in REV 529. The commission is not aware of any WTO notification of this program.			Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government. Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia). The commission considers that this constitutes a benefit in relation to the goods exported to Australia. The financial contributions made under this program meet the definition of a subsidy under section 269T.	Access is limited to enterprises within the jurisdiction of the Hongqiao District Commerce Commission The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					to specificity in section 269TAAC(3).
Program 54 Government subsidy for job stability	This program was found to be countervailable in REV 529. The commission is not aware of any WTO notification of this program.			<p>Grants, in the form of a refund on revenue paid to the government, are provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>Access is limited to enterprises within the jurisdiction of relevant local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 55 Commercial Committee Support Fund	<p>This program was found to be countervailable in REV 529.</p> <p>The commission is not aware of any WTO notification of this program.</p>			<p>Grants, in the form of a refund on revenue paid to the government, are provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p>	<p>Access is limited to enterprises within the jurisdiction of relevant local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 56	<p>This program was found to be countervailable in REV 529.</p> <p>The commission is not aware of any WTO</p>			<p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture</p>	<p>Access is limited to enterprises within Tianjin.</p> <p>The commission is satisfied that this meets the criteria of a</p>

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Tianjin Municipal Bureau of Commerce July 2018-December 2018	notification of this program.			or export of all goods of the recipient enterprise (including goods exported to Australia).	<p>countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 57 Aiding fees for cases of technology information collection	<p>This program was found to be countervailable in REV 529.</p> <p>The commission is not aware of any WTO notification of this program.</p>			The commission considers that this constitutes a benefit in relation to the goods exported to Australia.	<p>Access is limited to enterprises within the jurisdiction of relevant local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 58 Patent supporting fund from Science and Technology Bureau of Jinghai District 2019	This program was found to be countervailable in REV 529. The commission is not aware of any WTO notification of this program.			The financial contributions made under this program meet the definition of a subsidy under section 269T.	Access is limited to enterprises within the Jinghai District. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application,

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 59 Patent supporting fund for 2017 program	<p>This program was found to be countervailable in REV 529.</p> <p>The commission is not aware of any WTO notification of this program.</p>			Grants, in the form of a refund on revenue paid to the government, are provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.	<p>Access is limited to enterprises within the jurisdiction of relevant local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 60 Subsidy for patent from Science and Technology Bureau Fengnan District, Tangshan City	This program was found to be countervailable in REV 529. The commission is not aware of any WTO notification of this program.			Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).	Access is limited to enterprises within Fengnan District, Tangshan City. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 61 Subsidy for Energy collection from the Tangshan Quality and Technology Supervision Bureau	This program was found to be countervailable in REV 529. The commission is not aware of any WTO notification of this program.			The commission considers that this constitutes a benefit in relation to the goods exported to Australia.	Access is limited to enterprises within Tangshan. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 62 Award to the Patent Innovation from Science	This program was found to be countervailable in REV 529. The commission is not aware of any WTO			The financial contributions made under this program meet the definition of a subsidy under section 269T.	Access is limited to enterprises within the Fengnan District. The commission is satisfied that this meets the criteria of a

SEF 590 – Hollow Structural Sections – China, Korea, Malaysia and Taiwan

PUBLIC RECORD

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and Technology Bureau Fengnan District	notification of this program.				<p>countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
Program 63 Technical innovation subsidy for dedusting equipment and boiler	<p>This program was found to be countervailable in REV 529.</p> <p>The commission is not aware of any WTO notification of this program.</p>			<p>Grants, in the form of a refund on revenue paid to the government, are provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p>	<p>Access is limited to enterprises within the jurisdiction of relevant local authorities.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 64 Awards to technology innovation from Bureau of Industry and Information Technology Fengnan District	This program was found to be countervailable in REV 529. The commission is not aware of any WTO notification of this program.			Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).	Access is limited to enterprises within the Fengnan District. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application,

PUBLIC RECORD

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					or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
Program 65 Awards to "Well-Known Trademarks" from Hebei Province Market Supervision administration Bureau	<p>This program was found to be countervailable in REV 529.</p> <p>The commission is not aware of any WTO notification of this program.</p>			<p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>Access is limited to enterprises within Hebei province.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over</p>

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					others. It therefore does not satisfy the exception to specificity in section 269TAAC(3)
Program 66 Grant for Technology ERP	This program was found to be countervailable in REV 529. The commission is not aware of any WTO notification of this program.			The financial contributions made under this program meet the definition of a subsidy under section 269T.	Access is limited to enterprises within the jurisdiction of relevant local authorities. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b). No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).

PUBLIC RECORD

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 590-1 Hebei Province Quality Awards	The commission is not aware of any WTO notification of this program.	Hebei Provincial Government Quality Award Excellent Performance Management System GB/T19580-2012	<p>Enterprises within the Hebei Province must satisfy the 'Hebei Provincial Government Quality Award Excellent Performance Management System GB/T19580-2012'.</p> <p>The decision on the grant is made by the provincial government, with the payment made by the Hebei Provincial Market Supervision Administration.</p>	The financial contributions made under this program meet the definition of a subsidy under section 269T.	<p>Access is limited to enterprises within Hebei province.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3)</p>