6. Tianjin AproMetal Co., Ltd
2-2 Ruihe Road
Jinghai Development Area
Tianjin P R China
Tel: 0011 86 022 6868 7796
Fax: 0015 86 022 6868 7790

7. Pearl River Hot Dipped Galvanising Steel Pipe Factory
Floor 8, Tower B, New Energy Building
Nanyou Road, Shenzhen
Guangdong 518054 P R China
Tel: 0011 86 755 664 1103
Fax: 0015 86 755 664 5976

8. Pearl River Steel Pipe Co., Ltd
Rm2, No 21 Zhenxing Street
Lijiao, Haizhu District, Guangzhou
Guangdong 518054 P R China
Tel: 0011 86 020 8417 7606
Fax: 0015 86 020 8417 5617

9. Tai Feng Qiao Metal products Co. Ltd
Road 3, Jiedong Economic Development & Testing Zone
Jieyang, 513500 Guangdong P R China
Tel: 0011 86 663 326 4579
Fax: 0015 86 663 326 4021

10. Weifang East Steel Pipe Co., Ltd
28 Chunyuan Road, Weicheng District
Weifang Shandong 261011 P R China
Tel: 0011 86 0536 818 7013

12. Shandong Fubo Group Co. Ltd
Fushan Industrial Zone Zibo Hi-Tech Industrial Zone Zibo
Shandong, 255084 P R China
Tel: 0011 86 533 3786 960
Fax: 0015 86 533 3786 960

13. Tianjin Jinshengde Steel Tube Produce Co
No 10 Tongfa Road
Wang Qingtuo Town
Tianjin 301713 China
Tel: 86 22 2952 5020
Fax: 86 22 2952 5130

<u>Korea</u>

1. Jinbang Steel Korea Co., Ltd
605 Ho-Dong, Nam-Gu
Pohang Korea
Tel: 0011 82 54 289 5700
Fax: 0015 82 54 278 0421

2. Histeel Co., Ltd
673-3 (89B-4L) Gojan-Dong, Namdong-ku
Incheon Korea
Tel: 0011 82 32 815 6386
Fax: 0015 82 32 815 6389

3. Hankook Steel Co. Ltd
477, Jong Jee – Ri
Koon Book – Myun
Haman – Gun, Kyung Nam, KOREA

Tel: 82 55 585 7001
Fax: 82 55 585 7254

Malaysia

1. Alpine Pipe Manufacturing Sdn Bhd
Lot 6085, Jalan Haji Abdul Manan, Batu 5 1/2, Jalan Meru
410505 Klang, Selangor Darul Ehsan
Malaysia
Tel: 0011 60 3 3392 7678
Fax: 0015 60 3 3392 6820

2. Southern Steel Pipe Sdn Bhd
4457, Jalan Chain Ferry Butterworth
Penang 12100 Malaysia
Tel: 60 4 3317393

3. Choo Bee Metal Industries Berhad
Lot 65580
Kawasan Perusahaan Pengkalan
1, 31500 Lahat, Perak, Malaysia
Tel: 60 5 322 6228
Fax: 60 5 322 7228

4. Melawar Industrial Group Berhad
Lot 53, Persiaran Selangor
40200 Shah Alam
Selangor Malaysia
Tel: 60 3 5519 2455
Fax: 60 3 5510 6410

Taiwan

1. Yieh Phui Enterprises Co., Ltd
369, Yu Liao Road
Chiao Tou Hsiang
Kaohsiung Hsieng Taiwan
Tel: 0011 886 7 611 7181
Fax: 0015 886 7 612 7109

2. Ta Fong Irons Co., Ltd
No. 6 Kung Si 2nd Road,
His-ti Village, Kseng-Kang Hsing
Changhua, Taiwan
Tel: 0011 886 4 798 0826
Fax: 0015 886 4 799 1417

Thailand

1. Pacific Pipe Public Company Limited
298, 298/2 Soi Krupcharoen
Suksawat Road
Samutprakarn 10290 Thailand
Tel: 0011 66 2 679 9000

2. Saha Steel Pipe Co., Ltd
78 Moo 3 Poochao Road
Bangyapraek, Phrapradaeng
Sumuthprakarn Thailand 10130
Tel: 0011 66 2 385 9023

3. Samchai Steel Industries Co., Ltd
75/14, 75/17 Moo5
Soi WatSopanaram, Ekkachai R.,
Muang, Samutsakorn
Thailand 74000
Tel: 66 2 384 0099/66 34 833 891
Fax: 66 2 384 2385/66 34 833 895

- **exporters to Australia; and**

With the exception of the following exporters of HSS from China, it is understood that the above-listed producers are also exporters of HSS to Australia.

The following Chinese companies are understood to be exporters of HSS to Australia:

1. Shanghai Minmetals Materials & Products Corp
Level 15, 757 Guang Fu Road
Shanghai, P R China
Tel: 0011 8621 6381 5858-1513
Fax: 0015 8621 63803536

5. Rizhao Steel Co., Ltd
Yanhai Road, Rizhao City
Shandong Province, P R China
Tel: 0011 86 633 6188 298
Fax: 0015 86 633 6188 033

6. Minmetals Steel Co., Ltd
5 Sanlihe Road, Haidian District
Beijing, P R China
Tel: 0011 86 10 6849 4619
Fax: 0015 86 10 6849 4234

The following Thai company is understood to export HSS to Australia:

1. ITOCHU (Thailand) Ltd
5th Floor, Harindhorn Tower
54 North Sathorn Road, Bangrak
Bangkok 10500 Thailand
Tel: 66 0 2266 3086

**importers in Australia.**

The following companies are understood to be involved with the importation of HSS during 2010:

(i) Insteel Pty Ltd
46 Ross Street
Toorak Vic 3142
Tel (03) 9826 5000
Fax: (03) 9826 8666

(ii) Steelforce Trading Ltd

Tel: 1300 850 629
Fax: 1300 850 639

(iii) Amity Pacific Pty Ltd
Suite 301/270 Pacific Highway
Crows Nest NSW 2065
Tel (02) 9439 1300
Fax: (02) 9439 1344

(iv) GP Marketing International Pty Ltd
Unit 4, 177-199 Pacific Highway
North Sydney NSW 2060
Tel: (02) 9925 0755
Fax: (02) 9925 0909

(v) ThyssenKrupp Steelcom Pty Ltd
Suite 3/17 Myrtle Street
North Sydney NSW 2060
Tel: (02) 9954 9166
Fax: (02) 9955 4298

(vi) CMC (Australia) Pty Ltd
Level 6,
697 Burke Road
Camberwell Victoria 3124
Tel: (03) 9805 0400
Fax: (03) 9805 0455

(vii) Croft Steel Pty Ltd
Unit 1/26 Newheath Drive
Arundel QLD 4214
Tel: (07) 5500 0260

(viii) Stemcor Australia Pty Ltd
Level 13/15 Blue Street
North Sydney NSW 2059
Tel: (02) 9458 8528
Fax: (02) 9925 0844

(ix) Dixon (Asia Pacific) Pty Ltd
170 Francis Road
Wingfield SA 5013
Tel: (08) 8202 6000
Fax: (08) 8202 6099

5. **If the import volume from each nominated country at Appendix A.2 (Australian Market) does not exceed 3% of all imports of the product into Australia refer to Part C.6 of the application.**

The following Table B-1.1 summarizes import volumes of HSS from China, Korea, Malaysia, Taiwan, Thailand and all other countries over the period 2005 to 2010 inclusive. The data has been sourced from [*company*], a company involved in the dissemination of published import and export data.

**Table B-1.1 – 2010 Import volumes – China, Korea, Malaysia. Taiwan, Thailand and all other countries**

| Year | China | Korea | Malaysia | Taiwan | Thailand | Other Countries | Total |
|---|---|---|---|---|---|---|---|
| 2005/06 | 62462 | 16071 | 45831 | 13691 | 13631 | 26922 | 162737 |
| 2006/07 | 118486 | 12397 | 41477 | 19452 | 21232 | 32259 | 222767 |
| 2007/08 | 89217 | 11317 | 82776 | 10883 | 30791 | 31617 | 255088 |
| 2008/09 | 94809 | 17043 | 80688 | 21016 | 25197 | 40095 | 277507 |
| 2009/10 | 110286 | 21767 | 14661 | 39936 | 37763 | 33982 | 258680 |
| 2010/11 | 98642 | 12194 | 9432 | 19656 | 43960 | 46255 | 230139 |

**Notes:**

1. Import volumes based upon Xxxxxxx export data.

Table B-1.2 below identifies the percentage of total import volumes from each nominated country in 2010/11 for the purposes of confirming that imports are above negligible levels.

**Table B-1.2 – 2010 Import volumes percentages – China, Korea, Malaysia. Taiwan, Thailand and all other countries**

| Year | China | Korea | Malaysia | Taiwan | Thailand | Other Countries | Total |
|---|---|---|---|---|---|---|---|
| 2010/11 | 98642 | 12194 | 9432 | 19656 | 43960 | 46255 | 230139 |
| As % of Total imports | 42.9% | 5.3% | 4.1% | 8.5% | 19.1% | 20.1% | 100% |

Exports of HSS from China, Korea, Malaysia, Taiwan and Thailand during 2010/11 were each in excess of the 3 per cent negligible volumes necessary for inclusion in this current application. In aggregate, imports from the nominated countries account for 80 per cent of total HSS exports to Australia in 2010/11.

6. **In the case of an application for countervailing measures against exports from a developing country, if the import volume from each nominated country at Appendix A.2 (Australian Market) does not exceed 4% of all imports of the product into Australia refer to Part C.6 of the application.**

The volume for goods the subject of the application exported from China exceed 4 per cent of the total export volume during 2010/11.

## B-2 Export price

1. **Indicate the FOB export price(s) of the imported goods. Where there are different grades, levels of trade, models or types involved, an export price should be supplied for each.**

Import data for the goods the subject of this application that are classified to 7306.30.00, 7306.61.00 and 7306.69.00 (and the respective statistical codes identified at Section A-3.2 above are the subject of confidentiality restrictions imposed by the Australian Bureau of Statistics ("ABS") at the request of importers. As a consequence only total import values by month are recorded by ABS. Information pertaining to source country, volumes, values, state of importation is therefore not available from published ABS data.

OneSteel ATM has purchased trade statistics data from Xxxxxxx ("*Company*"). Xxxxxxx information identifies export volumes and values to Australia on a monthly basis for the countries relevant to this application (i.e. for China, Korea, Malaysia, Taiwan and Thailand).

The Xxxxxxxxx information differs from published ABS data in that it reflects **exports** (as distinct

from imports, as usually published by ABS) by exporting country. There likely exists, therefore, timing differences to ABS data which details imports in a specified period (generally on a monthly basis).

Xxxxxxxxx information is considered reliable and has been used as the basis for determining export prices for HSS exports to Australia from China, Korea, Taiwan and Thailand during 2010. HSS exports from Malaysia in 2009 and 2010 are not identifiable in the Xxxxxxxxx information.

The Xxxxxxxx information (commercial-in-confidence data) has been included in *soft copy* form with this application. Similarly, the purchased ABS data for incorrectly classified HSS imports has also been included in *soft copy* form.

2. **Specify the terms and conditions of the sale, where known.**

Export data for China, Korea, Taiwan and Thailand as published by Xxxxxxxxx reflects FOB export prices for each country. Purchased aggregate ABS data for Malaysia (in six-monthly time periods has also been obtained) also reflects FOB export prices.

3. **If you consider published export prices are inadequate, or do not appropriately reflect actual prices, please calculate a deductive export price for the goods. Appendix B1 (Deductive Export Price) can be used to assist your estimation.**

Xxxxxxxxx data and ABS data are considered adequate for the purposes of demonstrating actual export prices for HSS exported to Australia during 2010/11.

4. **It is important that the application be supported by evidence to show how export price(s) have been calculated or estimated. The evidence should identify the source(s) of data.**

Please refer to Xxxxxxxxx and ABS data used for export price confirmation (provided on a confidential basis in electronic form – reference is Confidential Attachment B-1.4).

## B-3 Selling price (normal value) in the exporter's domestic market.

1. **State the selling price for each grade, model or type of like goods sold by the exporter, or other sellers, on the domestic market of the country of export.**

**HSS in China, Korea, Malaysia and Taiwan**

OneSteel ATM has attempted to obtain information relating to domestic selling prices for HSS sold domestically in each of the nominated countries exporting to Australia. Domestic selling price information, however, is considered commercially-sensitive by producers/distributors and as such, is not available to external parties due to possible breaches of commercial arrangements between supplier and customer.

Customs and Border Protection has undertaken investigations into HSS exported from China, Korea, Malaysia, Taiwan and Thailand in 2006, as well as further inquiries into HSS exports from China and Malaysia in 2009, and is familiar with the sensitivity concerns of suppliers concerning pricing arrangements.

In earlier applications, the Australian industry provided prima facie normal values based upon constructed selling prices for HSS sold in each of the subject countries. In the absence of published domestic pricing information in the nominated countries, constructed selling prices have again be determined for HSS exported from China, Korea, Malaysia, and Taiwan.

Market survey information has been used for HSS normal values in Thailand.

The Australian industry has previously demonstrated that HSS sold in China is at artificially low prices due to government influence on prices for raw materials and other costs that render

Chinese costs and selling prices unsuitable for normal value purposes. OneSteel ATM does not retract from this position and considers that recent findings in other WTO jurisdictions confirm that selling prices for HSS (or pipe and tube as it is otherwise known) sold in China were at levels that were lower than would be evident under normal market conditions.

The industry's 2008 application involving the dumping and subsidisation of HSS exported from China was not able to be adequately investigated by Customs and Border Protection as the inquiry was prematurely terminated at an early stage (due to a negligible dumping margin initially assessed for HSS exports from Malaysia). One Chinese exporter was visited by Customs and Border Protection for the purposes of establishing dumping margins in 2008, whereas inquiries in relation to the subsidisation of HSS by the government of China were not completed due to the termination of the investigation.

The findings of other administrations (most notably Canada and the USA) in determining the existence of countervailable subsidies and significant margins of dumping for Chinese HSS continue to be relevant to Chinese HSS exports to Australia. OneSteel ATM has continued to experience deteriorating sales volumes and market shares through price undercutting from Chinese HSS exports. OneSteel ATM has compared the prevailing prices for HRC and HRS sold in China with prevailing export prices to Australia for HSS and it is evident that Chinese exporters are selling HSS at prices that are less than full recovery (see above in Section A-9.2).

It is noted that the same exporters of HSS to Australia have also been identified as exporters of pipe and tube in investigations by other administrations. In the most recent dumping investigation in the EU, the following exporters were identified and had measures imposed on them:

(i) Jinghua Steel Pipe Group (including Hengshui Jinghua Steel Pipe Co. Ltd, an exporter identified in the 2008 HSS inquiry in Australia);
(ii) Zhejiang Kingland Group (including Zhejiang Kingland Pipeline and Technologies Co. Ltd ;
(iii) Fubo Group (including Shandong Fubo Group Co. Ltd);
(iv) Huludao Group (including Huludao City Steel Pipe Industrial Co. Ltd)

The identified entities have been involved in previous HSS inquiries in Australia.

As with the findings of other administrations (Canada, USA and EU) OneSteel ATM does not consider Chinese domestic selling prices and costs can be used as the basis for normal values. Chinese HSS prices are artificially low and are established at levels lower than would be evident under normal market conditions. OneSteel ATM does not consider that any component of the Chinese HSS producer's cost profile can be used for normal value purposes as the range of subsidies and grants that benefit Chinese producers in the HSS industry, contribute to artificially low prices for HSS in China. In addition, the prevalence of State Owned Enterprises ("SOEs") in the Chinese HSS industry also impacts the level of prevailing HSS prices as benefits afforded to SOEs through reduced rates of income tax (compared with Foreign Invested Enterprises or *FIEs*), reduced raw material prices and exemptions from certain other business expenses permit SOEs to price at levels below FIEs on the Chinese domestic market.

For these reasons the Canadian Border Services Agency ("CBSA") determined that Chinese selling prices for pipe and tube (i.e. HSS) were at levels lower than would be evident under normal market conditions.

OneSteel ATM submits that the CBSA findings are relevant to this application. The range of benefits afforded to Chinese HSS producers (although the benefits may not flow to *all* Chinese HSS producers) impact market selling prices for HSS (both domestic and export) such that Chinese HSS selling prices are lower than they would be if the market was unaffected by the subsidies. The impact of the Government of China ("GOC") benefits, therefore, renders Chinese HSS prices and costs unsuitable for normal value purposes.

Prima facie normal values for HSS sold in China have been determined on the same basis as normal values for HSS sold in Korea, Malaysia, Taiwan (i.e. a domestic market price for HRC

sold in Japan[4] adjusted for a conversion cost and appropriate amounts for selling and general administration expenses, and profit). OneSteel does not consider it reasonable to exclude a level of profit for HSS manufacture in China as the operations have been established on the basis of generating profits to owners/shareholders.

Please refer to Section B-4.1 for the basis of *prima facie* normal values for HSS exported from China, Korea, Malaysia, and Taiwan.

**Market Selling Prices – Thailand**

OneSteel ATM xxxxxxxxxxxxxx [*report*] on HSS domestic selling prices in Thailand. Domestic selling prices for a broad range of black circular hollow sections ("CHS"), painted rectangular hollow sections ("RHS") and galvanized CHS was obtained over the period December 2009 to February 2011.

Domestic prices obtained are exclusive of VAT and distribution charges.

A copy of the [*report*] is included in electronic form at Confidential Attachment B-4.1.2.

*Key aspects of report*

The [*report*] identified the relevant matters:

- Thailand does not have an upstream supply of steel, hence, slab, billet and other raw material imported;
- Overall steel demand in Thailand increased by 30 per cent from 2009 to 2010;
- Thai market is facing strong competition from cheaper steel products from China;
- Recent imposition of anti-dumping duties on imported HRC into Thailand expected to contribute to higher HSS prices in Thailand;
- The anti-dumping duties on imported HRC do not apply to imported HRC that is value-added and exported;
- Thai government has set a price ceiling on HRC of 24/50 per kg since March 2009;
- HSS manufacturers usually pay 6 per cent higher than HRC going to another application due to agent's commission;
- Pacific Pipe and Saha Thai account for more than 25 per cent of total HSS production in Thailand; and
- Australia is a large export destination for Thai HSS producers, with 51,504 tonnes exported in 2010.

The [*report*] indicates that the Thai Government sets a ceiling for the maximum price for raw material hot rolled coil ("HRC") used in the manufacture of HSS. As HRC accounts for up to approximately 80 per cent of the production cost associated with HSS manufacture, it is not unreasonable to conclude that the government's influence on HRC pricing in Thailand would also impact the selling prices for HSS. It is therefore likely that Thai HSS prices on the domestic market are artificially low and likely to be lower than they otherwise would be in a competitive market.

OneSteel ATM understands that HRC in Thailand is included on a Thai government "Priority Watch List" with a price ceiling established by the Thai government on an ongoing basis (refer to extract of "Products under supervisory for 200 items, As of October 2006". The commissioned market survey confirms the Thai government's role in establishing a ceiling price for HRC.

In addition, the WTO Trade Policy Review on Thailand (WT/TPR/S/123) at Section 126 (P.71) confirms structural steel (i.e. HRC) as a "controlled good" by the Thai government where prices are "maintained" at a certain level.

Due to the significant proportion of HSS as represented by the controlled HRC price, OneSteel ATM asserts that Thai domestic prices for HSS are artificially low and cannot be used as the

[4] OneSteel ATM xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and has used Japanese domestic HRC prices as basis for HRC cost in constructed selling price (see further below).

basis for definitive normal values. However, for the purposes of this application, OneSteel ATM has relied upon the [*report*] prices (despite these being considered artificially low) for *prima facie* normal value purposes.

It is OneSteel ATM understanding that Thai exports of HSS to Australia include black or painted HSS and HDG HSS, and that an approximate 50:50 split in export volumes applies. Weighted average normal values have been adjusted accordingly to account for this split.

**Table B-4.1.6 – Thai Domestic Selling Prices, Export Prices and Dumping Margins**

| Month | Domestic Selling Price[1] A$/MT | Weighted average Export Price[2] US$/MT | Weighted Average Dumping Margin A$/MT | Dumping margin as % of Export Price |
|---|---|---|---|---|
| **Apr 2010** | 962 | 738 | 168 | 21% |
| **May 2010** | 971 | 772 | 108 | 13% |
| **Jun 2010** | 965 | 779 | 44 | 5% |
| **Jul 2010** | 979 | 854 | 11 | 1% |
| **Aug 2010** | 1004 | 842 | 67 | 7% |
| **Sep 2010** | 1040 | 841 | 138 | 15% |
| **Oct 2010** | 1072 | 856 | 209 | 24% |
| **Nov 2010** | 1085 | 862 | 220 | 25% |
| **Dec 2010** | 1065 | 822 | 238 | 29% |
| **Jan 2011** | 1131 | 817 | 311 | 38% |
| **Feb 2011** | 1195 | 812 | 284 | 47% |

**Notes:**

1. Refer to Thai [*report*] for Thai domestic prices.
2. March 2011 domestic price is based upon Feb 2011 domestic price.
3. Sourced from Xxxxxxx.

**2. Specify the terms and conditions of the sale, where known.**

*Prima facie* normal values have been established on a constructed selling price basis at the ex-factory level (for China, Korea, Malaysia and Taiwan), hence only minor adjustments for inland freight and port charges associated with the exportation of the goods to Australia may be required.

For HSS sold in Thailand, market selling prices are exclusive of VAT and distribution charges.

**3. Provide supporting documentary evidence.**

As *prima facie* normal values have been established on a constructed selling price basis, with the exception of Thailand, please refer to Section B-4 below.

**4. List the names and contact details of other known sellers of like goods in the domestic market of the exporting country.**

OneSteel ATM has identified known sellers of HSS on the domestic markets of the nominated countries exporting HSS to Australia (See Section B-1.4 above). In addition, the following companies were also identified as HSS producers in Malaysia:

Malaysia

1. PTP Manufacturing Sdn Bhd
   Lot 294, Jalan Perak Dua,
   Pasir Gudang Industrial Estate
   87100 Pasir Gudang, Johor Malaysia
   Tel: 60 7 252 1611

Fax: 60 7 252 0857

2. Amalgamated Industrial Steel Berhad
Lot 11A, Jalan Utas 15/7
Section 15
40000 Shah Alam
Selangor Darul Ehsan
Tel: 60 3 5032 7300
Fax: 60 3 5032 7325/7321

## B-4 Estimate of normal value using another method.

**1. Indicate the normal value of the like goods in the country of export using another method (if applicable, use appendix B2 Constructed Normal Value).**

OneSteel ATM sought to obtain domestic selling prices for HSS in each of the domestic markets nominated in this application. Market selling price information has only been available for Thailand. In respect of China, Korea, Malaysia and Taiwan domestic selling prices for HSS are not readily available via published newsletters or journals.

OneSteel ATM, therefore, has used published raw material prices from industry newsletters as a basis for constructing normal values for those countries that domestic selling prices for HSS are not available.

The following commentary addresses the basis for constructed selling prices for HSS exported from China, Korea, Malaysia and Taiwan.

**A. China**

A-1.1 Introduction

In previous investigations involving HSS exported from China (i.e. Report 116, Termination Reports 144 and 144A, and Report 153) Customs and Border Protection has determined normal values for HSS sold in China on the basis of Chinese domestic selling prices. OneSteel ATM considers that Chinese selling prices are unsuitable for normal value purposes due to government influence on raw material input costs, SOE ownership in the HRC/HRS sector, and the impact of a catalogue of subsidy benefits that ultimately reduce HSS selling prices (either directly or indirectly) to artificially low levels (or at least at levels that are lower than they otherwise would be in the absence of the benefits).

It may be recalled that Investigation 116 was conducted following the introduction of the 'particular market situation' provisions to assist in identifying what constituted 'artificially low prices'. Investigation 116, however, was limited to a 'dumping' investigation only, and consideration was not afforded to countervailable subsidies that may have existed at the time. Investigation 144 was terminated prior to the investigation of subsidisation allegations involving HSS exported to Australia, and investigations into the alleged dumping of Chinese HSS by certain exporters was also curtailed by the earlier termination of inquiries into HSS exported from Malaysia. It is therefore evident that Customs and Border Protection has not had the opportunity to complete a full investigation into the subsidies and benefits that apply to HSS manufactured in China to permit a complete understanding as to the extent to which HSS prices in China may be considered artificially low and unsuitable for normal value purposes.

This application identifies the range of subsidy benefits (see Part C.1 below) applicable to Chinese steel slab (feed for HRC manufacture), HRC/HRS and HSS suppliers that impact the Chinese HSS selling prices. In its investigations, Customs and Border Protection may likely encounter additional subsidies, hence the application is not limited solely to the subsidy programs identified in this application.

It is OneSteel ATM's view that HSS manufactured in China benefits from subsidies and

government-influenced selling prices for raw material inputs. The impact of the benefits received and low input costs renders Chinese HSS selling prices artificially low – indeed lower than they otherwise would be in the absence of the government-derived benefits – and therefore unsuitable for normal value purposes. In accordance with the legislative provisions outlined below, HSS sales in China are "unsuitable because of a particular market situation" in the country of export for the goods under consideration ("GUC").

OneSteel ATM's reasons for asserting a particular market situation are addressed hereunder.

A-1.2 Legislative provisions

Section 269TAC(2)(a) of the Customs Act outlines the circumstances whereby the GUC are sold domestically in the country of export are relevant and suitable for the purposes of determining normal values under s.269TAC(1). Normal values cannot be determined under s.269TAC(1) using market selling prices where:

- There is an absence or low volume of sales of like goods; and
- Sales are unsuitable because of a the situation in the market of the exporting country is such that sales in that market are not suitable for the purposes of s.269TAC(1).

In Investigation 116 (based upon domestic and export sales which occurred during 2005), Customs and Border Protection established that there were sufficient sales of like goods on the Chinese domestic market. Customs and Border Protection examined whether Chinese domestic sales were unsuitable because of a particular situation and, based upon the information available at the time, concluded:

> *"Having regard to all the relevant information available, and after giving all interested parties the right to be heard on the matter, Customs is not satisfied that the situation in the HSS market in China is such that sales of HSS in that market are not suitable for use in establishing normal value under s.269TAC(1)[5]."*

Subsequent to Customs and Border Protection's investigation of 2006, a number of investigations by other administrations into the exports of Chinese pipe and tube (i.e. HSS) have come to a different conclusion than Customs and Border Protection's findings on the absence of a particular market situation for HSS sold in China. The investigation outcomes of these other administrations (notably investigations by the Canadian Border Services Agency, U.S. Department of Commerce, and the European Commission, each investigating pipe and tube exported from China) have determined that pipe and tube sold in China is not priced on a competitive basis, and have used surrogate information for normal value purposes as appropriate.

Customs and Border Protection's assessment as to whether a 'particular situation' exists in the exporting country are addressed in the Dumping and Subsidization Manual. The relevant considerations that address whether a situation in the market renders sales not suitable for use in determining normal values under s.269TAC(1) of the Act were recently amended. The relevant provisions contained in the manual are as follows:

*"in considering whether sales are not suitable for use in determining a normal value under s.269TAC(1) of the Act because of the situation in the market of the country of export, Customs and Border Protection may have regard to factors such as:*

- *whether the prices are artificially low; or*
- *whether there is significant barter trade; or*
- *whether there are other conditions in the market which render sales in that market not suitable for use in determining prices under s.269TAC(1) of the Act.*

*Government influence on prices or costs could be one cause of "artificially low pricing".*

[5] Appendix 1, Trade Measures Report No. 116, P.76.

*Government influence means influence from any level of government.*

*In investigating whether a market situation exists due to government influence, Customs and Border Protection will seek to determine whether the impact of the government's involvement in the domestic market has materially distorted competitive conditions. A finding that competitive conditions have been materially distorted may give rise to a finding that domestic prices are artificially low or not substantially the same as they would be if they were determined in a competitive market.*

*One example of government influence distorting competitive conditions and leading to artificially low prices may be the presence of government owned enterprises in the domestic market. The presence of government owned enterprises might not, of itself, lead to a conclusion that the sales are unsuitable. Rather, the numbers of government owned enterprise and whether their (sic) trading unprofitably so as to significantly distort the prices in the market of private enterprises in [the market - sic] and whether market conditions can no longer be said to prevail are looked at.*

*Prices may also be artificially low or lower than they would otherwise be in a competitive market due to government influence and distortion of the costs of inputs. Again the mere existence of any government influence on the costs of inputs would not be enough to make sales unsuitable. Rather, Customs and Border Protection looks at the effect of this influence on market conditions and the extent to which domestic prices can no longer be said to prevail in a normal competitive market. It should be noted government influence on costs can only disqualify the sales if those costs can be shown to be affecting the domestic prices.*

*Thus, a range of conditions concerning the sales themselves may have the effect of rendering those sales prices as being unsuitable for use in determining prices under s. 269TAC(1) of the Act."*

It is OneSteel ATM's view that HSS prices in China are artificially low – or at least, 'not substantially the same as they would be if they were determined in a competitive market' - due to a range of factors that impact directly and indirectly on the prevailing Chinese HSS prices. These factors include:

- raw material HRC/HRS at less than adequate remuneration
- prevalence of SOEs involved in the manufacture of HRC/HRS in China that receive benefits for the production of HRC/HRS resulting in artificially low raw material input prices for HSS manufacture in China;
- reduced and/or subsidized energy (i.e. electricity prices) input prices in the manufacture of HRC/HRS and HSS; and
- benefits received by HSS manufacturers from the GOC including reductions in taxes, exemptions on duties and VAT, the provision of grants, and concessional interest payments, that impact the selling prices for HSS manufactured in China.

The impact of the above factors is that Chinese HSS prices are lower than they otherwise would be due to the government influence (on raw material input costs and other specific benefits provided). A number of the subsidy programs that are provided by the GOC have been identified by other administrations. It is therefore appropriate for Customs and Border Protection to consider recent findings by the Canadian, US and EU administrations into Chinese exports of pipe and tube.

A-1.3 Investigations into Chinese Pipe & Tube by other administrations

Over the past four years, Administrations in Canada, the European Union and the United States have undertaken investigations into Chinese exports of pipe & tube – of which many are produced by the same exporters to Australia. Each of the investigations is identified in Table B-3.1 below.

**Table B-4.1.1 – Dumping and Subsidy Investigations against Chinese pipe & tube**

| Country | Investigation Type | Product | Start | Finish |
|---|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| Canada | Dumping and Subsidy | Certain carbon Steel welded pipe | Jan 2008 | Jul 2008 (CBSA) Aug 2008 (CITT) |
| EU | Dumping | Certain welded tubes and pipe | Sept 2007 | Dec 2008 |
| US | Dumping and Subsidy | Circular welded carbon quality steel pipe | July 2007 | May 2008 |
| | Dumping and Subsidy | Light-walled Rectangular pipe And tube | July 2007 | May 2008 |

**Subject goods**

Table B-4.1.2 below contrasts the goods coverage of each of the Canadian and U.S. investigations with this application. It is evident that the Canadian application was based upon circular welded pipe only, and reflects the Australian industry's application coverage for circular pipe and tube.

The U.S. investigations involved two separate inquiries – one for circular welded pipe and tube, and a further for rectangular (including square) pipe and tube. The U.S. categories for both circular and rectangular pipe appear broader than the parameters included in this application – nevertheless, the goods covered by this application fall within the specifications of investigations in Canada (for circular pipe and tube) and the U.S. (for circular and rectangular pipe and tube).

The goods the subject of the EU investigation involved welded tubes and pipes of the same description as detailed in the Canadian investigation.

**Table B-4.1.2 – Subject Goods**

| Canadian Investigation | U.S. Investigation | This Application |
|---|---|---|
| Carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range of ½ inch up to and including 6 inches (12.7mm to 168.3 mm in outside diameter); | (1) Circular welded carbon quality steel pipes and tube, of circular section, and with an outside diameter of 0.372 inches (9.45mm) or more, but no more than 16 inches (406.4mm), whether or not stencilled, regardless of wall thickness; | Electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes.<br>Specifications include:<br>(i) circular products - those exceeding 21mm up to and including 165.1mm in outside diameter;<br>(ii) oval products – those with a perimeter up to an including 1277.3mm; and<br>(iii) rectangular and square products - those up to an including 1277.3mm in perimeter. |
| | (2) Certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4mm. | |
| | | |

The US investigations were concluded in May 2008. Significant dumping and subsidy margins were assessed. The Canadian investigation has reached a final determination (significant dumping and subsidy margins established), with the Canadian International Trade Tribunal ("CITT") determining on 20 August 2008 that the Canadian industry had suffered material injury as a result of injurious Chinese imports at dumped and subsidised prices. The EU determination was published on 16 December 2008.

### A-1.4 US Investigations

The US does not recognise China as a market economy country in anti-dumping investigations. As such, the US uses surrogate information upon which to base normal values. In the circular welded and light walled rectangular steel pipe cases, the US utilised publicly available information on Indian steel pipe & tube producers to determine normal values[6].

### A-1.5 Canadian investigations

Canada considers China's economy to be based upon normal market conditions. Canadian legislation, however, does include provisions which permit normal values to be determined in accordance with a prescribed methodology where certain conditions prevail in the domestic market of an exporting country (not limited to exports only from China). Section 20 of the Special Import Measures Act enables the President to form an opinion on whether "domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Where section 20 is applicable, the normal value of the goods is not determined based on a strict comparison with domestic prices or costs in that country[7]."

It is further stated that "*The mere existence of substantial domestic price determination by the government would be insufficient to apply section 20 of SIMA. The Canadian Border Services Agency ("CBSA") is also required to examine the price effect resulting from substantial government determination of domestic prices and whether there is sufficient information on the record for the President to have a reason to believe that the resulting domestic prices are not substantially the same as they would be in a competitive market.*"

As part of the Section 20 Inquiry process, the CBSA forwarded Section 20 questionnaires to some 92 exporters and producers of certain carbon steel welded pipe ("CSWP"). Only 5 exporters participated in the process. The five cooperative exporters accounted for approximately 50 per cent of total exports (by volume) to Canada of the goods under consideration. These companies, however, represented only a minor proportion of the total welded pipe sector in China, which was understood by CBSA to be in excess of 2000 producers.

The CBSA did not limit its findings on the Chinese welded pipe sector to the five cooperative exporters. Additional information was sourced from publicly available sources, as required.

CBSA's final determination published on 21 July 2008 confirmed that Section 20 did apply to certain carbon steel welded pipe and tube in China. CBSA stated[8]:

> *"..that domestic prices in the welded pipe sector are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive environment."*

The CBSA subsequently determined that normal values could not be determined on the basis of selling prices in China or on the fully absorbed cost to make-and-sell the goods plus an appropriate amount for profit - as Section 20 conditions were found to exist in the Chinese welded pipe sector.

Where Section 20 applies, the CBSA will generally determine normal values on the basis of surrogate information. However, as no surrogate country producers provided information necessary to determine normal values, this alternative was not available. Similarly, insufficient

[6] USDOC Final Determinations of Sales Less than Fair Values and Affirmative Determination of Critical Circumstances for Light Walled Rectangular Pipe and Tube, and Circular Welded Carbon Quality Steel Pipe, from P R China, June 2008.

[7] Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons, CBSA, 7 May 2008, 23.

[8] Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons Confirming the making of final determinations in respect to the dumping and subsidizing of, CBSA, 5 August 2008.

information was available to base normal values on a deductive basis using the prices of imported goods into Canada from a suitable surrogate country.

CBSA used a constructed methodology to determine normal values in the final determination. This methodology (pursuant to a ministerial direction) involved CBSA using publicly available information of regional prices for hot-rolled coil sourced from the Metal Bulletin World Steel and Metal News ("Metal Bulletin") – i.e. Steelbenchmarker prices. The CBSA averaged Metal Bulletin's prices – excluding domestic prices in China – to obtain an average benchmark hot rolled coil price over the period of the investigation. CBSA then applied a conversion factor – information sourced from Canadian producers – to arrive at a normal value for non-galvanised CSWP. The conversion factor represents the value-adding process by the manufacturer associated with transforming hot rolled coil into CSWP. A level of profit was then applied to the fully-absorbed manufacturing cost. This profit was obtained from publicly available information supplied by the Canadian industry for a particular company that operated welded steel pipe production facilities in Mexico and the U.S. during 2007.

The rationale for using Canadian costs (in the absence of suitable alternative information under Canadian anti-dumping law) as indicative of Chinese CSWP costs included:

- Labour comprises a very low proportion of overall costs incurred by producers; and
- Technology used by manufacturers in China and Canada is essentially the same,

hence it was considered appropriate to use the conversion factor in the determination of normal values.

The CBSA, therefore, has based normal values for CSWP manufactured in China on alternate information to prices and costs in China. These alternate costs included benchmark prices for traded hot rolled coil (excluding Chinese prices) and a conversion factor obtained from Canadian industry representatives.

***Rejection of Chinese prices by CBSA***

Of relevance to this current application by OneSteel ATM are the reasons why the CBSA considered:

- Chinese domestic prices to be substantially determined by the government; and
- there was sufficient reason that Chinese domestic prices were not the same as if they were determined in a competitive market.

CBSA's comments in relation to these two factors influence CBSA's findings as to whether a "market situation" was evident for Chinese pipe and tube. Both of these issues were addressed by CBSA in Appendix 2 – Summary of Findings – Section 20 to the Final Determination[9].

CBSA Conclusion on GOC Influence of domestic CSWP prices

On the issue of whether Chinese domestic prices are substantially determined by the government of China, CBSA examined a range of criteria. Each of the identified influencing factors are summarised hereunder.

Key factors considered by CBSA included:

- The Chinese economy is recognised as an "economy in transition" by Canadian authorities. CBSA identified that the Government of China ("GOC") recognises the iron and steel industry as a "pillar industry" whereby it (the GOC) maintains relatively strong control over the principal companies, including maintaining a minimum 50 per cent GOC equity in the principal enterprises in the industry group, via its five year and annual plans and substantial ownership of productive assets in the industry;

[9] Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons Confirming the making of final determinations in respect to the dumping and subsidizing of, CBSA, 5 August 2008, P. 34.

- The level of Communist Party of China ("CPC") involvement at the decision-making levels of state-owned enterprises ("SOEs") in the steel industry;

- The role the GOC plays in the economy through five-year annual plans and its substantial ownership of productive assets, both at the State and provincial levels;

- The implementation of the "National Steel Policy" ("NSP") which outlines the GOC's objectives and future plans for the domestic iron and steel industry which has not occurred as a consequence of market conditions but as a result of GOC direction and includes (but is not limited to):

    - Rationalisation of steel industry players through mergers and acquisitions under the supervision of the National Development and Reform Commission ("NDRC");
    - Consolidation of steel production under the supervision of NDRC to achieve goal of top 10 producers accounting for more than 50 per cent of production by 2010; and
    - Direction to manufacture increased volumes of higher value production by 2010;

- The issuance of "policies, circulars, guidelines, laws and comments" by GOC which the CBSA determined were used to control the steel industry, including the welded pipe sector;

- Reviews by CBSA of welded tube and HRC prices in China highlighting welded tube pricing below the cost of the raw material input, HRC. Additionally, CBSA evidenced Chinese welded pipe being sold on export markets at or below the cost of market-determined pricing for HRC;

- CBSA had previously determined that the flat rolled steel sector in China – which includes both HRC and narrow strip – as the subject of Section 20 and that prices for this sector were not determined on a competitive basis. On this basis, CBSA considered it reasonable to assume that hot rolled steel represents the major cost of welded pipe "that this domestic price distortion in that sector will be transferred through to the welded pipe sector."

- The use of the VAT system to further manage the Chinese steel industry through the removal of VAT on exports, thereby increasing supply for local consumption and forcing down domestic prices. The removal of the VAT (and the subsequent impost of an export tax in successive stages) firstly on steel billet and slab, followed by narrow strip and HRC, and then welded pipe impacted the export intentions of steel producers whose aim it was to maximise VAT rebates. As the VAT was removed and the export tax introduced, producers moved to further value-adding of the steel (i.e. billet and slab, followed by HRC and strip, then welded pipe), delivering the GOC's intended outcome of further value-adding in China. The process was not market-driven – rather, GOC orchestrated;

- Evidencing NDRC's "Guiding Catalogue for Industry Restructuring" ("Catalogue") which provided structural adjustment guidance for investment directions, the administration of investment projects, and to enforce public policy decisions on finance, taxation, etc. Three key categories were identified, namely:

    - Catalogue of encouraged Investment Industries;
    - Catalogue of Restricted Investment Industries; and
    - Catalogue of Eliminated Investment Industries.

  Of note was the fact that Encouraged Investment Industries included "modern hot rolled broad-band (wide strip) steel rolling, the production of oil well pipe for petroleum exploration, high pressure boiler pipe for power stations, and steel pipe used in the long distance transportation of oil and gas. The Restricted Investment

Industries included hot rolled steel sheet projects of below 800mm (which is referred to as narrow strip). Under Eliminated Investment Industries are hot rolled narrow strip mills[10]". The GOC – not the market – was found to be guiding investment decisions in the Chinese steel industry.

The conclusion reached by CBSA when aggregating its findings supports a view that "*the GOC significantly affects the steel industry, including the welded pipe sector, through means other than market forces to the extent that these prices are substantially determined by the GOC*[11]."

CBSA Conclusion on whether Chinese domestic prices are not the same as they would be if they were determined in a competitive market.

As indicated above, CBSA had previously determined that Chinese domestic prices for *certain flat hot rolled carbon and alloy steel sheet and strip are substantially determined by the GOC and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.* This finding in relation to HRC was published on 27 June 2007.

Similar decisions were made in respect of Chinese industry steel products for certain hot rolled carbon steel plate and high strength low-alloy steel plate (3 February 2006), and certain seamless carbon or alloy steel oil and gas well casing (7 February 2008).

As a consequence of the HRC investigation, CBSA considered it appropriate to examine the level of influence of HRC on the welded pipe sector, as it had previously concluded that domestic HRC prices in China were not reliable for normal value purposes.

CBSA contrasted world HRC prices (excluding China domestic) for hot rolled steel (based upon MEPS World Price, MPS NorthAmerican and SteelBenchmarker World Export Prices). Prices for hot rolled steel coil over the investigation period (calendar year 2007) "exhibited a moderate price increase".

*World hot rolled steel coil v Chinese hot rolled coil and strip prices*

CBSA obtained domestic pricing for hot rolled steel from the iSteelAsia website. Over the investigation period, Chinese domestic prices for hot rolled steel increased.

CBSA compared average world market prices for hot rolled steel with Chinese domestic hot rolled steel. It found the Chinese domestic prices for hot rolled steel coil and narrow strip to be significantly lower than the average world market prices for hot rolled steel. When CBSA compared co-operating exporter purchase prices for hot rolled steel with world market prices for hot rolled steel, the former was significantly lower than the latter.

CBSA established that "Chinese domestic prices for hot rolled steel coil and strip were consistently and substantially below the average world market prices" during the investigation period.

*Welded pipe pricing*

CBSA has previously determined that Chinese HRC prices are not determined on a competitive basis. Hence, CBSA does not accept Chinese domestic prices for HRC for establishing whether Chinese domestic welded pipe prices recover the fully absorbed cost-to-make-and-sell. CBSA compared Chinese published domestic prices for welded pipe with prices for hot-rolled steel in competitive markets. This analysis demonstrated that Chinese domestic selling prices for welded

[10] Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons Confirming the making of final determinations in respect to the dumping and subsidizing of, CBSA, 5 August 2008, P. 55.
[11] Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons Confirming the making of final determinations in respect to the dumping and subsidizing of, CBSA, 5 August 2008, P. 58.

pipe were less than selling prices for raw material hot rolled steel in competitive markets.

CBSA consequently established that domestic prices of Chinese carbon steel welded pipe are less than they otherwise would be in a competitive market.

*Canadian Findings' Summary*

CBSA determined – and the President accepted – that the domestic prices in the welded pipe sector in China are substantially determined by the GOC and there was sufficient reason to believe that the domestic prices are not substantially the same as they would be if they were determined in a competitive market.

**A-1.6 EU Inquiry – certain welded tubes and pipes of iron or non-alloy steel exported from China**

The European union published Council Regulation (EC) No.1256/2008 on 16 December 2008 imposing anti-dumping duties on imports of certain welded tubes and pipes of iron or non-alloy steel exported from China.

There were numerous Chinese exporters of pipe and tube to Europe over the investigation period. The European Commission ("EC") 'sampled' six Chinese producers/groups of producers for participation in the investigation (of which four of the six also export to Australia). The parties sought 'Market economy treatment' under the EU provisions, however, the EC rejected the claims of the selected Chinese producers as none were able to demonstrate compliance with certain published criteria pertaining to the existence of market conditions in China.

Specifically, the EC was satisfied that Chinese pipe and tube producers:

(i) were subject to significant State interference;
(ii) maintained accounts that included irregularities with regard to accounting practices of the companies investigated;
(iii) continued to operate with distortions carried over from the non-market economy system.

The EC therefore considered it appropriate to base normal values on surrogate country information. Domestic pricing information was obtained from USA pipe and tube producers and dumping margins determined. A country-wide level of dumping was established at 130.8 per cent of the CIF Community import price.

**A-2.1 This application - Constructed Selling Prices - China**

OneSteel ATM submits that the respective Canadian and EC's findings support a conclusion that domestic selling prices for HSS sold in China are "not determined on a competitive basis". That is, a market situation is evident that renders Chinese domestic sales of HSS unsuitable for normal value purposes.

HSS selling prices in China are impacted by government decisions that result in raw material inputs with prices lower than they otherwise would be in a competitive environment. The level of government ownership in the primary steel-making industry enables the GOC to implement its guidance policies on restructuring the Chinese steel industry, through an array of "incentives" that contribute to lower than otherwise input costs for HRC/HRS manufacture in China. However, the impact of government influence is not solely limited to raw material cost inputs. Further examples of government influence involves reductions in taxes, duties and VAT liabilities, the provision of grants, and other exemptions and/or reductions in the costs of conducting business in China.

OneSteel ATM also highlights the recent EC findings that the cooperating Chinese exporters failed to satisfy the EC's "market economy treatment" ("MET") provisions. Following on-the-spot verification with six of the sampled Chinese exporters, the EC investigators determined that none of the six entities could satisfy three of the five criteria necessary to achieve MET status. The summarised MET criteria that the six exporters did not satisfy were:

(i) business decisions and costs are made in response to market conditions and without State interference;
(ii) accounting records are independently audited, in line with international accounting standards and applied for all purposes;
(iii) there are no significant distortions carried over from the former non-market economy system.

It is noted that the EC inquiry involved six major steel exporting groups of companies. Four of the steel groups that were sampled and participated in the EC inquiry:

(v) Jinghua Steel Pipe Group (including Hengshui Jinghua Steel Pipe Co. Ltd, an exporter identified in the 2008 HSS inquiry in Australia);
(vi) Zhejiang Kingland Group (including Zhejiang Kingland Pipeline and Technologies Co. Ltd – also an exporter of HSS to Australia);
(vii) Fubo Group (including Shandong Fubo Group Co. Ltd an exporter of HSS to Australia identified in the 2008 inquiry);
(viii) Huludao Group (including Huludao City Steel Pipe Industrial Co. Ltd – an exporter of HSS to Australia).

These four Chinese exporters of carbon steel welded pipe and tube are also exporters of HSS to Australia that have previously been involved in earlier HSS inquiries in Australia. OneSteel ATM understands that these four Chinese exporters constitute a major proportion of all Chinese HSS exports to Australia.

OneSteel ATM concurs with the recent findings of the EC as contained in Council Regulation (EC) N0. 1256/2008 and considers that Chinese domestic selling prices and costs are unsuitable for normal value purposes. This viewpoint is also consistent with the CBSA findings that Chinese carbon steel welded pipe and tube prices are not determined in a competitive manner.

OneSteel ATM also considers that relevant information in the public domain supports positions that the GOC exercises considerable influence over entities operating in the Chinese steel sector. "Money for Metal" has identified a range of GOC subsidies that benefit the Chinese steel industry that impact Chinese HSS prices. The following are some key observations:

- the majority of steel producers in China are "controlled" by the State[12] with in excess of 90 per cent of the top 20 producers being State-owned or controlled;
- the Chinese steel industry is a "pillar" industry whereby the GOC maintains strong control in industry companies understood to involve at least a 50 per cent controlling equity in each entity;
- due to the high level of state control over Chinese steel enterprises, there exists little opportunity for pricing to be determined by the market on a truly competitive basis;
- similar conditions are evident for the Chinese hot rolled steel market (which includes both HRC/HRS and hot rolled narrow strip) due to significant government influence;
- hot rolled steel accounts for between 80 and 85 per cent of the fully absorbed cost of the GUC, therefore, government influence on HRC/HRS prices translates to influence of the GUC;
- the GOC exercises its influence over the steel industry via a range of policies and instruments which are considered measures beyond the mere "guidance" of the sector;
- most notably, the recent elimination of the VAT refund applicable upon exports of the GUC has resulted in an increase in domestic supply, driving down domestic prices to levels below market-determined raw material HRC/HRS prices; and
- the range of subsidies applicable to entities in the steel industry (of which a substantial majority are the subject of government ownership and/or control) provides benefits to members which flow through to prices for the GUC which are lower than would be evident under normal market conditions.

It is therefore evident that the GOC intervenes in the "strategic" steel sector and seeks to enhance the competitiveness of Chinese steel manufacturers and exporters.

*Conclusions on suitability of Chinese HSS sales prices*

On the basis of the above considerations, OneSteel ATM agrees with the findings of other administrations and is of the view that domestic prices for the GUC are artificially low or not substantially the same as they would be if they were determined in a competitive market. As such, normal values for Chinese HSS must be determined on an alternative basis to prevailing selling prices and/or costs for Chinese domestic producers.

**A-2.2 Chinese HSS normal values**

OneSteel ATM notes that the CBSA and EC used surrogate information for the purposes of establishing normal values for Chinese carbon steel welded pipe manufacturers and exporters. In particular, CBSA determined normal values based upon a "constructed" selling price for Chinese certain carbon steel welded pipe. Steel welded pipe and tube is manufactured from HRC/HRS that accounts for between 80 and 85 per cent of the cost of production of the finished pipe and tube. A conversion factor associated with the cutting, forming and welding of the hot rolled product into pipe (circular or rectangular) and the painting of the finished product, is applied to the raw material. An appropriate amount of profit is then applied, to arrive at a normal value for the GUC.

For hot-dipped galvanised and in-line galvanised pipe and tube, an amount for zinc is added to the raw material hot rolled coil price and conversion factor, prior to the addition of profit. The cost of zinc is based upon prices reported by the London Metals Exchange. The amount associated with the zinc cost does not include the actual zinc galvanising cost – therefore the galvanised pipe constructed selling price is considered a conservative estimate for prima facie purposes.

*Proposed methodology*

OneSteel ATM does not have access to surrogate HSS cost and selling price information of producers in other countries. Actual selling price and cost information are commercially-sensitive and is not generally published in any form. OneSteel ATM has therefore "constructed" Chinese

[12] Refer "Money for Metal: A Detailed Examination of Chinese Government Subsidies to its Steel Industry" Riley Rein, July 2007, P. 13, included at Non-Confidential Attachment at B-4.1.3.

selling prices for HSS based upon raw material HRC[13] prices sourced from SBB[14] and, as was undertaken by CBSA, included amounts for a conversion cost factor, zinc cost (as appropriate), S,G&A expenses and an amount for profit.

OneSteel ATM has utilised HRC pricing obtained from SBB that reflects Japan domestic prices over the twelve-month period to December 2010. The industry considers that a domestic price for HRC is considered a better representation of the raw material input price for a long-term purchaser of HRC than using an export CFR price (that is more representative of 'spot' pricing than longer-term, contractual pricing arrangements). The Japanese domestic price is a Free-On-Truck ("FOT") price excluding local delivery. This price is considered the most appropriate benchmark price for raw material input steel as:

- the Japanese steel industry is considered efficient;
- the industry does not suffer from high protection barriers; and
- the price is considered the most reliable domestic price available from published sources.

As indicated, a conversion cost associated with the value-adding process of converting HRC/HRS to HSS is applied. It should be noted that the conversion cost of narrow strip to HSS is approximately 30 per cent higher than HRC to HSS[15]. This cost also includes a raw material paint cost component. The conversion cost applied is representative of OneSteel ATM's cost.

CBSA identified that the relative cost of labour (included in the conversion factor) is insignificant in the production cost of steel pipe and tube. Chinese HSS producers, therefore, do not possess any comparative advantage in lower production costs due to lower labour rates. The conversion costs of OneSteel ATM are considered competitive and are reflective of a facility operating at close to maximum utilisation rates.

A cost associated with Selling and General Administration (S,G&A) expenses has also been applied to the factory production costs of manufacturing HSS in China. As OneSteel ATM does not have access to S,G&A costs for manufacturers in China (or any other country) a figure based on historic S,G&A expenses has been used. The S,G&A value included is lower than that incurred currently by OneSteel ATM and reflects an amount (i.e. $ per metric tonne) when OneSteel ATM sales volumes were at significantly higher levels.

The constructed selling price for HSS in China, therefore, reflects lower historic amounts for S,G&A expenses.

OneSteel ATM considers it appropriate to include an amount for profit in the constructed selling price. Manufacturers are profit-motivated and operate to achieve adequate returns for shareholders. The applicants have utilised a five per cent level of profit for Chinese HSS based upon information sourced from SinoTrust reports for Chinese pipe producers[16] in 2010 of approximately 5 per cent (before EBITA).

The constructed selling prices for HSS sold in China in 2010 therefore includes a market price for raw material HRC, an allowance for conversion (and painting), and amounts for S,G&A[17] and profit. This constructed selling price for HSS sold in China is for comparison purposes with Chinese black and painted export prices to Australia.

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[13] OneSteel ATM has included evidence demonstrating that the Chinese domestic narrow strip and Chinese domestic HRC prices are similar across 2010/11, and that the xxxxxxxxxxxxx is approximately $xxxx/MT below the Japanese HRC price over the same period.

[14] SBB – Steel Business Briefing provides a service to the global steel industry on news, prices, research and events. It is a highly regarded benchmark publication to the global steel industry and is widely relied upon by steel mills, traders, distributors and stock holders for current pricing and events. Refer www.steelbb.com

[15] Yield loss

[16] SinoTrust Reports indicate that the steel rolling industry net profit in 2010 was 2.23 per cent. A level of profit before taxes and abnormals would likely be approximately 5 per cent. – See Confidential Attachment C-1.1.5.

[17] OneSteel ATM has used an S.G&A value per MT based upon xxxx values achieved in 2008

As a significant proportion of Chinese HSS exports to Australia include hot-dipped galvanized ("HDG") HSS, an amount for the cost of zinc must be included in the Chinese HSS selling price. A separate HDG normal value incorporating the cost of zinc from OneSteel ATM has been used. Due to the lower production utilisation rates for OneSteel ATM in 2010, a lower zinc value representative of the zinc cost from the 2008 year has been included.

OneSteel ATM understands that HSS exported from China is predominantly split on a 20:80 basis between black and/or painted pipe, and HDG pipe. A 20:80 weighting has been used in the weighted average dumping margin calculations.

Weighted-average constructed selling prices for HSS sold in China in 2010 have been re-produced in Table B-4.1.2 on a monthly basis. Also included in Table B-4.1.2 are average Chinese export prices and dumping margins determined for Chinese HSS exports to Australia during 2010.

**Table B-4.1.2 – Chinese Constructed Selling Prices, Export Prices and Dumping Margins**

| Month | Constructed Selling Price[1] A$/MT | Average Export Price[2] A$/MT | Weighted Average Dumping Margin A$/MT | Dumping margin as % of Export Price |
|---|---|---|---|---|
| **Jul 2010** | 1535 | 1033 | 502 | 49% |
| **Aug 2010** | 1444 | 967 | 477 | 49% |
| **Sep 2010** | 1378 | 887 | 491 | 55% |
| **Oct 2010** | 1361 | 871 | 491 | 56% |
| **Nov 2010** | 1389 | 860 | 529 | 61% |
| **Dec 2010** | 1303 | 1009 | 294 | 29% |
| **Jan 2011** | 1290 | 883 | 407 | 46% |
| **Feb 2011** | 1422 | 943 | 479 | 51% |
| **Mar 2011** | 1444 | 938 | 506 | 54% |
| **Apr 2011** | 1422 | 956 | 466 | 49% |
| **May 2011** | 1443 | 904 | 539 | 60% |
| **Jun 2011** | 1377 | 894 | 483 | 54% |

**Notes:**

1. Refer HSS Dumping Margin Calculations at Confidential Attachment B-6.
2. Sourced from Xxxxxxx.

**B. Constructed Selling Prices – Korea**

Domestic HSS selling prices for Korea are not published in industry newsletters or journals and are not generally available (as is the case in Australia). OneSteel ATM is therefore unable to determine *prima facie* normal values for HSS sold in Korea under s.269TAC (1) of the Customs Act.

Information relating to Korean HSS producers' costs of manufacture are similarly not available. OneSteel ATM is unable to determine *prima facie* normal values under s.269TAC(2)(c) of the Customs Act.

Because the above approaches for establishing normal values are not available, OneSteel ATM has constructed selling prices for HSS sold in Korea and propose that the selling prices be used in accordance with s.269TAC(6) of the Customs Act (i.e. best available information).

It should be noted that OneSteel ATM is not asserting that artificially low prices occur in Korea in respect of HSS products (unlike HSS manufactured in China). OneSteel ATM, however, considers that a similar methodology as has been used for constructed selling prices in China is also appropriate for HSS sold in Korea. However, for the purposes of profit, a 10 per cent return consistent with the recent cost of capital is considered relevant. Table B-4.1.3 details weighted average constructed selling prices for HSS sold in Korea by month during 2010. It is OneSteel ATM's understanding that Korean exports of HSS to Australia comprise primarily black or painted HSS, hence no weighted normal value calculations for HDG HSS have been used.

**Table B-4.1.3 – Korean Constructed Selling Prices, Export Prices and Dumping Margins**

| Month | Constructed Selling Price[1] A$/MT | Average Export Price[2] A$/MT | Weighted Average Dumping Margin A$/MT | Dumping margin as % of Export Price |
|---|---|---|---|---|
| **Jul 2010** | 1486 | 1027 | 460 | 45% |
| **Aug 2010** | 1410 | 1185 | 225 | 19% |
| **Sep 2010** | 1355 | 1016 | 339 | 33% |
| **Oct 2010** | 1341 | 930 | 411 | 44% |
| **Nov 2010** | 1364 | 945 | 418 | 44% |
| **Dec 2010** | 1292 | 900 | 393 | 44% |
| **Jan 2011** | 1183 | 1251 | -68 | -5% |
| **Feb 2011** | 1321 | 956 | 366 | 38% |
| **Mar 2011** | 1345 | 914 | 431 | 47% |
| **Apr 2011** | 1392 | 957 | 434 | 45% |
| **May 2011** | 1409 | 1187 | 222 | 19% |
| **Jun 2011** | 1354 | 1678 | -324 | -19% |

**Notes:**

1. Refer HSS Dumping Margin Calculations at Confidential Attachment B-6.
2. Sourced from Xxxxxxx.

### C. Constructed Selling Prices - Malaysia

Trade Measures Report No.144A ("Report No.144A) details Customs and Border Protection's investigations with the largest manufacturer and exporter of HSS from Malaysia, Alpine Pipe Manufacturing Sdn Bhd ("Alpine"). Following claims by the Australian industry that Alpine's export prices for HSS to Australia were impacted by the receipt of subsequent rebates from the sole Malaysian HRC manufacturer, Customs and Border Protection further investigated HSS exports by Alpine.

Report No. 144A reports the following on Customs and Border Protection's findings[18]:

> *"•* *Alpine has been provided with ample opportunity during this investigation to adequately address claims surrounding the existence of rebates on purchases of HRC from Megasteel;*
> • *Alpine appears to be justifying its earlier denial of their existence on the grounds that rebates have not actually been paid or received for Alpine's purchases of HRC during the investigation period. This justification is not accepted;*
> • *Alpine's full disclosure on the rebate arrangements (either paid or payable) would have allowed Customs and Border Protection to consider the implications of the arrangements for the dumping finding. The disclosure of the rebates would have also allowed Customs to undertake a further line of questioning and verification of the role of Alpine's parent, Hiap Teck, and whether this impacted on the cost to make and sell information provided.*
>
> *Customs and Border Protection concludes that Alpine did not give a full and open account of matters relevant to the determination of dumping, in particular the receipt of rebate payments on HRC purchases. Therefore information provided by Alpine cannot be relied upon because it is no longer considered to be reliable".*

Customs and Border Protection then determined normal values for Alpine based upon all relevant information and used the applicant's estimate of a constructed cost to make and sell HSS, with an amount of profit based upon Hiap Teck's 2007 profit.

Customs and Border Protection determined country-wide dumping margins for Malaysia at 15.2

[18] Trade Measures Report No.144A, P.17 & 18.

per cent for exports of HSS to Australia during 2008.

OneSteel ATM does not have access to domestic selling prices and/or costs of production information for Alpine in Malaysia. OneSteel ATM has therefore determined constructed selling prices as a basis for normal values for comparison with Malaysian HSS exports to Australia.

In the 2008 application, the Australian industry understood that the majority of Malaysian exports to Australia were understood to be RHS pipe (which requires HRC raw material feed). Prima facie normal values have taken this factor into account when weighting normal value calculations.

Prima facie normal values and export prices for Malaysia are included in Table B-4.1.4 below.

**Table B-4.1.4 – Constructed Malaysian Selling Prices, Export Prices and Dumping Margins**

| Period | Constructed Selling Price[1] A$/MT | Export Price[2] A$/MT | Dumping Margin A$/MT | Dumping Margin As % of Export Price |
|---|---|---|---|---|
| **Apr 2010** | 1288 | 848 | 440 | 52% |
| **May 2010** | 1377 | 1042 | 335 | 32% |
| **Jun 2010** | 1529 | 1050 | 479 | 46% |
| **Jul 2010** | 1493 | 1099 | 394 | 36% |
| **Aug 2010** | 1397 | 978 | 419 | 43% |
| **Sep 2010** | 1329 | 1024 | 304 | 30% |
| **Oct 2010** | 1311 | 924 | 387 | 42% |
| **Nov 2010** | 1339 | 862 | 477 | 55% |
| **Dec 2010** | 1250 | 881 | 368 | 42% |
| **Jan 2011** | 1236 | 830 | 406 | 49% |
| **Feb 2011** | n/a | n/a | n/a | n/a |
| **Mar 2011** | 1397 | 985 | 412 | 42% |

**Notes:**

1. Refer HSS dumping margin calculations at Confidential Attachment B-6.
2. Import data sourced from ABS.
3. No exports from Malaysia to Australia in Feb 2011.

OneSteel ATM is unable to separate the ABS import data between painted and HDG pipe, hence the average A$FOB price has been used for dumping margin calculation purposes. Further, OneSteel ATM is unable to access Malaysian export data post March 2011 (not available at time of lodgement) hence dumping margins to March 2011 are only available.

**D. Constructed Selling Prices – Taiwan**

Domestic HSS selling prices for Taiwan are not published in industry newsletters or journals and are not generally available (as is the case in Australia). OneSteel ATM was therefore unable to determine *prima facie* normal values for HSS sold in Taiwan under s.269TAC (1) of the Customs Act.

Information relating to Taiwanese HSS producers' costs of manufacture are similarly not available. OneSteel ATM is unable to determine *prima facie* normal values under s.269TAC(2)(c) of the Customs Act.

Because the above approaches for establishing normal values are not available, OneSteel ATM has constructed selling prices for HSS sold in Taiwan and propose that the selling prices be used in accordance with s.269TAC(6) of the Customs Act (i.e. best available information).

It should be noted that OneSteel ATM is not asserting that artificially low prices occur in Taiwan in respect of HSS products (unlike HSS manufactured in China). OneSteel ATM, however, considers that a similar methodology as has been used for constructed selling prices in China is also appropriate for HSS sold in Taiwan. However, for the purposes of profit, a 10 per cent return consistent with the recent cost of capital is considered relevant. Table B-4.1.5 details weighted average constructed selling prices for HSS sold in Taiwan by month during 2010.

It is OneSteel ATM's understanding that Taiwanese exports of HSS to Australia include black or painted HSS and HDG HSS, and that an approximate 75:25 split in export volumes applies. Account of the Taiwanese export prices on a monthly basis (when compared with export prices from China, Korea, Malaysia and Thailand) is also indicative of the lower percentage of HDG exports across the 2010 year. Weighted average normal values have been adjusted accordingly to account for this split.

**Table B-4.1.5 – Taiwanese Constructed Selling Prices, Export Prices and Dumping Margins**

| Month | Constructed Selling Price[1] A$/MT | Average Export Price[2] A$/MT | Weighted Average Dumping Margin A$/MT | Dumping margin as % of Export Price |
|---|---|---|---|---|
| Jul 2010 | 1493 | 1014 | 479 | 47% |
| Aug 2010 | 1397 | 1029 | 368 | 36% |
| Sep 2010 | 1329 | 996 | 332 | 33% |
| Oct 2010 | 1311 | 853 | 457 | 54% |
| Nov 2010 | 1339 | 828 | 512 | 62% |
| Dec 2010 | 1250 | 733 | 517 | 71% |
| Jan 2011 | 1236 | 851 | 385 | 45% |
| Feb 2011 | 1374 | 789 | 585 | 74% |
| Mar 2011 | 1397 | 818 | 579 | 71% |
| Apr 2011 | 1374 | 830 | 544 | 66% |
| May 2011 | 1396 | 704 | 692 | 98% |
| Jun 2011 | | | | |

**Notes:**

1. Refer HSS Dumping Margin Calculations at Confidential Attachment B-6.
2. Sourced from Xxxxxxx.

It should be noted that Taiwan's June 2011 export data was not available at time of lodgement of submission, hence margins to May 2011 are only available.

**2. Provide supporting documentary evidence.**

Please refer to Confidential Attachment B-6 for prima facie normal values prepared for exports of HSS from China, Korea, Malaysia, Taiwan and Thailand.

## B-5 Adjustments.

**1. Provide details of any known differences between the export price and the normal value. Include supporting information, including the basis of estimates.**

The constructed selling prices for China, Korea, Malaysia and Taiwan are determined at the ex-factory level. As the "selling prices" represent an ex-factory price, minimal adjustments are required for fair comparison with published export price information obtained from [*company*].

There may be some export charges in the country of export for which an adjustment may be required. Adjustments for export charges will likely increase the normal values as determined. These include adjustments for inland freight, customs and FOB charges in country of export. It is estimated these expenses will account for between US$15-20 per metric tonne. The adjustments are not likely to materially alter the dumping margins determined for source countries where constructed selling prices have been used.

OneSteel ATM is aware that the GOC has adjusted the VAT rebate on numerous occasions to influence the level of Chinese HSS exports at any particular time. It is the applicant's understanding that throughout 2010, the VAT rebate on exports of HSS was 9 per cent. On this

basis, Chinese constructed selling prices across 2010 require an uplifting adjustment of 9 per cent to reflect the VAT rebate (the adjustment is not included in the constructed selling price calculations).

In respect of domestic HSS selling prices obtained for Thailand, it is understood that the prices are quoted at the ex-factory level, exclusive of domestic freight and VAT. Adjustments will only be required for export charges (as per other countries nominated in this application).

**2. State the amount of adjustment required for each and apply the adjustments to the domestic prices to calculate normal values. Include supporting information, including the basis of estimates.**

Please refer to Section B-5.1 above.

## B-6 Dumping margin.

**1. Subtract the export price from the normal value for each grade, model or type of the goods (after adjusting for any differences affecting price comparability).**

Weighted-average dumping margins for each of the nominated countries over the period July 2010 to June 2011 (where applicable) are included in Table B-6.1 below.

**Table B-6.1 – Weighted average dumping margins**

| | China | Korea | Malaysia | Taiwan | Thailand |
|---|---|---|---|---|---|
| **A$ or US$/MT** | A$447 | A$358 | A$419 | A$483 | US$148 |
| **% of Export Price** | 46.78% | 35.24% | 45.75% | 55.70% | 16.76% |

Thai dumping margins in US dollars as domestic prices and export prices obtained in US currency.

**2. Show dumping margins as a percentage of the export price.**

Please refer to Section B-6.1 for dumping margins as a percentage of export price.

# PART C

# SUPPLEMENTARY SECTION

**IMPORTANT**

Replies to questions in Part C are not mandatory in all instances, but may be essential for certain applications.

You should contact the Customs Dumping Liaison Unit before answering any question in this part:

☎ (02) 6275-6066 Fax (02) 6275-6990

## C-1 Subsidy

1. **Identify the subsidy paid in the country of export or origin. Provide supporting evidence including details of:**
   - **(i) the nature and title of the subsidy;**
   - **(ii) the government agency responsible for administering the subsidy;**
   - **(iii) the recipients of the subsidy; and**
   - **(iv) the amount of the subsidy.**

### C-1.1.1 Introduction

The Australian industry's application for countervailing measures in 2008 identified a broad range of Government of China ("GOC") subsidy programs that provided benefits to (either directly or indirectly) Chinese manufacturers and exporters of HSS.

In the current application, OneSteel ATM submits that Chinese exporters continue to benefit from a range of subsidies that cause the selling prices of HSS produced in China and exported to Australia to be lower than they otherwise would be.

OneSteel ATM considers that Chinese HSS export prices are low by contrast with HSS export prices from other exporting countries. Chinese export prices to Australia are camouflaged by the product mix – i.e. significant proportions of Chinese HSS exports are for the higher cost galvanized-pipe, whereas this product represents a lower proportion of the total product mix for imports from other countries.

In terms of competitive prices in Australia for imported HSS, Chinese HSS is consistently the FIS lowest-priced source of supply for each of the grade/finish variant exports (please refer to OneSteel ATM's competitive offer summaries).

Authorities in Canada (i.e. Canadian Border Services Agency – 'CBSA") and the USA (US Department of Commerce – "DOC") have determined Chinese HSS exports of welded carbon steel pipe (a number that are members of the same Group of Chinese companies that export to Australia) have benefited from subsidies received from the GOC.

It is OneSteel ATM's submission that Chinese HSS producers receive benefits from the GOC that cause Chinese selling prices for HSS to be lower than they otherwise would be in a competitive market. The types of benefits received (that are considered actionable under the subsidy provisions) include:

- HRC/HRS at artificially low prices due to government influence on key raw material inputs in liquid steel manufacture (e.g. through 40 per cent export taxes on coke that suppress domestic coke prices, thereby having a consequential impact on steel billet and HRS costs and prices);
- Reduced rates of taxation (including exemption) for State Owned Enterprises ("SOEs") and Foreign Invested Enterprises ("FIEs") that permit HSS to be sold at reduced prices;
- VAT and import duty exemptions on imported capital equipment that reduce the cost of business;
- The provision of specific grants to enterprises; and
- Less-than-market rate borrowings for entities involved in the strategic steel sector of the Chinese economy.

The GOC has identified the steel industry as a 'strategic' industry, key to China's long-term economic growth. The GOC has developed programs to aid the growth of the Chinese steel industry, by providing it with lower costs than would otherwise have occurred/existed. The GOC is able to successfully implement its programs for the steel industry due to the

significant proportion of State-Owned Enterprises ("SOE's") that operate in the Chinese steel industry (including the HSS sector).

CBSA conducted a re-investigation of export prices and normal values applicable to exports of circular welded pipe from China in April 2011. Under Canadian anti-dumping and countervailing rules, CBSA considers under a Section 20 investigation whether[19]:

> "*domestic prices are substantially determined by the government and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.*"

The President of CBSA concluded that the Conditions of Section 20 continue to exist for circular welded pipe sold in China. That is, the CBSA was satisfied that the conditions identified in its 2008 inquiry relating to circular welded pipe sold in China continue to prevail in 2010 and that it is appropriate to consider an alternative basis for Chinese normal values for circular welded pipe sold in China.

OneSteel ATM also considers that information in the public domain (including publicly available information considered by CBSA and the USDOC) supports a position that HSS is sold in China at artificially low prices due to a range of subsidies provided by the GOC to the Chinese steel industry. The impact of the subsidies received by the Chinese HSS industry (whether direct or indirect[20]) has resulted in dumped and subsidised injurious exports of HSS to Australia.

### C-1.1.2 Australia's Subsidies and Countervailing Provisions

Australia's subsidies and countervailing provisions are contained in Section 269T of the Customs Act 1901 s amended. In particular, sub-section 269T(1) of the Customs Act defines "subsidy" as:

In respect of goods that are exported to Australia, means:

"*(a) a financial contribution:*

- *(i) by a government of the country of export or country of origin of those goods; or*
- *(ii) by a public body of that country or of which that government is a member; or*
- *(iii) by a private body entrusted or directed by that government or public body to carry out a government function;*

*that is made in connection with the production, manufacture or export of those goods and that involves:*

- *(iv) a direct transfer of funds from that government or body to the enterprise by whom the goods are produced, manufactured or exported; or*
- *(v) a direct transfer of funds from that government or body to that enterprise contingent upon particular circumstances occurring; or*
- *(vi) the acceptance of liabilities, whether actual or potential, of that enterprise by that government or body; or*
- *(vii) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body by that enterprise; or*
- *(viii) the provision by that government or body of goods or services to that enterprise otherwise than in the course of providing normal infrastructure; or*

[19] www.cbsa-asfc.gc.ca/sima-Imsi/ri-re/ad1373/ad1373-ri10-nc-eng/html

[20] including the receipt of raw materials at artificially low prices from producers that have received subsidy benefits from the GOC.

*(ix) the purchase by that government or body of goods provided by that enterprise; or*

*(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;*

*if that financial contribution or income or price support confers a benefit in relation to those goods."*

Sub-section 269TAAC (1) determines that a subsidy is a countervailable subsidy if:

*"(a) it is specific; and*
*(b) it is not an excluded subsidy."*

Sub-sections 269TAAC (2) to (6) detail what circumstances determine whether a subsidy is "specific" or "not specific".

Sub-section 269TACC of the Act establishes the basis for determining whether benefits have been conferred from the subsidy. In particular, Sub-section 269TACC (1) and (2) state that:

*"(1) If:*
*(a) a financial contribution referred to in paragraph (a) of the definition of "subsidy" in sub-section 269T(1); or*
*(b) income or price support referred to in paragraph (b) of that definition;*

*is received in respect of goods, the question whether that financial contribution or income or price support confers a benefit, and, if so, the amount of subsidy attributable to that benefit, are to be worked out according to this section.*

*(2) If a financial contribution in respect of goods is a direct financial payment received from a government of a country, a public body of that government or of which that government is a member, or a private body entrusted or directed by that government or public body to carry out a governmental function, a benefit is taken to be conferred because of that payment."*

Sub-section 269TACC (3) considers the circumstances where no financial contribution is received in respect of the goods but some other benefit is conferred, then the Minister determines whether a benefit has been made. Sub-sections (4) and (5) outlines the guidelines to which the Minister must have regard in determining whether a financial contribution confers a benefit. Sub-section 269TACC (6) provides the legislative basis for quantifying the benefit that accrues to the recipient. Finally, S.269TACC (7) outlines the basis for an alternative quantification of the benefit by the Minister.

### C-1.1.3 Countervailable subsidies attributable to Chinese HSS

C-1.1.3.1 Chinese subsidies - Introduction

Customs and Border Protection has recently completed inquiries in relation to the subsidisation of aluminium extrusions from China[21]. The aluminium industry (including the downstream aluminium extrusions sector) is a 'pillar' (i.e. strategic) industry to the Chinese economy. Similarly, the Chinese steel industry is also a strategic industry sector that contributes significantly to economic growth in China. The Chinese steel industry has expanded rapidly since 1990 to be the largest steel industry in the world. For example, in 1990, steel production in China was estimated at 67.2 million tonnes of steel[22] and by 2008 China's output was estimated at 642 million tonnes[23]. China is the largest exporter of steel

[21] Refer Trade Measures Report No.148.
[22] WileyRein LLP, The China Syndrome: How subsidies and Government Intervention Created the World's Largest Steel Industry (July 2006), P.5 available at http://www.wileyrein.com/docs/docs/80.pdf.
[23] WileyRein LLP, Money for Metal: A Detailed Examination of Chinese Government Subsidies to its Steel Industry, P.1, Footnote 2 – See Non-Confidential Attachment B-4.1.3.

products, with anti-dumping and countervailing measures applying to Chinese steel exports in numerous WTO jurisdictions.

The GOC has continued to foster the local production and supply of steel products in China. In the early 1990s, the industry was dominated by State-Owned Enterprises ("SOEs") that permitted the GOC to enforce its objectives of rapid expansion and growth to turnaround China's position as a net importer of steel products into a net-export position. China, however, does not have a comparative advantage in iron ore or coke, the key raw materials for steel production. Through a broad range of policy instruments (including taxation policies, provision of grants, and attractive investment locational opportunities), the GOC has attracted investment into the Chinese steel sector that lacks a comparative advantage.

In 2006, the OECD estimated that SOEs accounted for approximately 57 per cent of total Chinese steel production[24]. Actual government ownership is understood to be much higher. In *Money for Metal*, approximately 91 per cent of total production of the top 20 steel groups in China is either state-owned or controlled. This level of influence enables the GOC to implement its programs to enhance the competitive position of Chinese domestic steel producers – and has contributed to the rapid growth of the Chinese steel industry since 1990.

The "benefits" provided by the GOC to attract investment into the Chinese Steel industry, however, are inconsistent with the WTO Countervailing and Subsidies provisions and are actionable by WTO member states where the benefits are determined as not negligible.

*WTO Appellate Body Report (WT/DS379)*

The recent WTO Appellate Body finding in respect of "Public Bodies" highlights that it is insufficient for administrations to conclude the existence of actionable subsidies on the basis of government ownership in the relevant sector alone. Rather, the WTO Appellate Body concluded that it is relevant to consider "*evidence that a government exercises meaningful control over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance governmental functions.*[25]".

The GOC has been able to influence the growth in steel production in China and subsequent downstream value-added steel products by virtue of the significant government ownership and control in the upstream Chinese steel slab and billet industry. The subsidies afforded to Chinese manufacturers in the primary steel manufacturing industry in China provides Chinese domestic manufacturers with an artificial cost-advantage over globally-sourced equivalents. Raw material slab and billet are available domestically in China at lower prices (due to the GOC-imposed export taxes (see below) that discourage the export of key steel industry raw material products. Penalties applied to exports direct investment to value-adding locally-sourced primary steel products (due to a purchase-cost advantage) thereby implementing the GOC's policy intent of discouraging imports and encouraging exports of value-added steel products.

The GOC is therefore able to enact its policy intentions of encouraging 'strategic' industries to export value-added steel products (in this case, HSS products) through its ownership and control in the primary steel-making industry through the provision of low-cost inputs in the primary-stell manufacturing process (refer to Money for Metal: A Detailed Examination of Chinese Government Subsidies to its Steel Industry, at Non-Confidential Attachment C-1.1.1).

OneSteel ATM understands that Chinese HSS manufacturers receive benefits from the GOC (whether directly or indirectly) that ultimately result in low-cost HSS exports to Australia. OneSteel ATM has examined recent findings published by CBSA (2008) and the US DOC

[24] Id, P.8-10.
[25] See WTO Appellate Body Report - United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China (WT/DS379/AB/R) 25 March 2011, published by WorldTradeLaw.netDSC at Non-Confidential Attachment C-1.1.1.

(also in 2008) to assist the identification of the benefits received by Chinese HSS exporters to Australia.

C-1.1.3.2 CBSA Findings on Subsidies

In its 2008 countervailing inquiry, CBSA received cooperation from four Chinese carbon steel welded pipe ("CSWP") and tube exporters. The four participating exporters were not considered a sufficient sized sample large enough to be representative of the numerous producers in China (understood to total in excess of 2000 companies), however, the volume of CSWP exported by the four exporters accounted for approximately 50 per cent of the volume from China during the investigation period.

CBSA's inquiries established that the four cooperative exporters received subsidy benefits under one or more of the following nine GOC-endorsed programs:

- Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and in Economic and Technological Development Zones;
- Preferential Tax Policies for Foreign Invested Enterprises;
- Local Income Tax Exemption and/or Reduction;
- Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan;
- Export Assistance Grants;
- Research and Development Assistance Grant of Wuxing District;
- Innovative Experimental Enterprise Grants;
- Superstar Enterprise Grants;
- Hot Rolled Steel Provided by Government at Less than Fair Market Value.

The CBSA determined a value for the relevant subsidy to the cooperative exporter based upon information furnished. A weighted-average of each of the nine subsidies, when aggregated, was applied to non-cooperative Chinese exporters.

The identified subsidy programs were not the only programs provided by the GOC. CBSA identified a further twenty-two (22) subsidy programs that had been used by the four cooperative exporters. As the GOC failed to furnish CBSA with details of each of the further 22 subsidy programs identified, CBSA applied a value to each subsidy based upon the simple average of the nine subsidies for which information was available.

OneSteel ATM considers that as the same Chinese exporters identified by CBSA are also responsible for a significant proportion of HSS exports to Australia, it is reasonable to conclude that the same subsidies programs identified by CBSA also apply to the same companies that export HSS to Australia. The range of benefits are dependent upon geographic location (i.e. whether in a western or coastal province of China), whether located in an economic zone (i.e. whether a special, high-tech, or provincial economic zone), the nature of ownership (whether a foreign invested enterprise ("FIE") and/or whether investors are located in Hong Kong or Taiwan), and a number of other economic consideration. The benefits are provided in the form of reduction and/or exemptions in taxation for specified periods, access to grants, exemptions from import duties and/or VAT, reduced or concessional rates of interest on borrowings, and certain benefits provided by local councils/provinces (including provision of land at no cost and exemptions on local charges).

The details of the 31 CBSA identified subsidies applicable to producers and/or exporters of CSWP exported from China are detailed in Appendix 3 to CBSA's "Statement of Reasons Concerning the making of final determinations with respect to the dumping and subsidizing of Certain Carbon Steel Welded Pipe originating in or exported from the People's Republic of China". Appendix 3 names the programs, identifies the legal basis of each program, outlines eligibility criteria, addresses the specificity of the subsidy and indicates upon which basis the subsidy amount has been calculated.

CBSA's Final Determination Report lists the identified programs that were determined as being specific subsidies that afforded benefits to recipient companies. OneSteel ATM requests Customs and Border Protection to examine the 31 identified programs and assess the benefits applicable to Chinese HSS producers. A copy of Appendix 3 from the CBSA Final Report and Statement of Reasons is included at Non-Confidential Attachment C-1.1.2.

C-1.1.3.3 Report 148 – aluminium extrusions exported from China

In Report No.148, Customs and Border Protection identified 19 subsidy programs (of 43 investigated) that it determined conferred a benefit to Chinese aluminium extrusion manufacturers. The 19 subsidy programs are detailed at Section 7.1 of Report No.148.

OneSteel ATM considers that whereas a particular subsidy program that may have been identified by Customs and Border Protection as not applying to Chinese aluminium extruders it cannot be assumed that the same subsidy program does not provide a benefit to Chinese HSS producers.

As a minimum, OneSteel ATM is of the view that the key subsidy programs identified in Report No. 148 (that were actioned) that fall within the broad descriptive headings of

(i) reduced income tax based on location (Programs 1, 16, 17 and 18);
(ii) Grants (Programs 2,3,4,5,6,7,8,9,26,29,32,35);
(iii) Reduced Income Tax (Program 10);
(iv) Provision of Goods (Program 15); and
(v) Tariff and VAT exemption (Program 21),

require investigation as they are similarly considered to have provided benefits to Chinese HSS exporters to Australia during 2010/11.

A detailed listing of the identified subsidy programs (drawn from the CBSA identified programs and investigated in Report No.148) has been included at Non-Confidential Attachment C-1.1.3. This Non-Confidential Attachment identifies each program, the agency (or government) that administers the program, and indicates the basis for payment of the subsidy. The available public information does not indicate which particular Chinese producers/exporters received the subsidy or, or the amount of the subsidy so received.

C-1.1.3.4 Subsidy Program 15 – raw materials at less than adequate remuneration

OneSteel ATM considers that HRC/HRSused by Chinese HSS producers is purchased at prices in China that are either artificially low or are at levels not substantially the same as they would be if they were determined in a competitive market.

CBSA has previously determined that Chinese HRC is sold at levels lower than in a normal competitive environment. CBSA has also determined that HRC and Hot Rolled Steel ("HRS") are the one market in China[26] and considers that market HRC prices can be contrasted with Chinese HRC and Chinese narrow strip prices.

OneSteel ATM's position on raw material HRC (or narrow strip) being sold at less than prevailing market prices is supported by an analysis of the raw material input chain for steel manufacture for steel billet. Liquid steel is manufactured from coke and iron ore (in proportion of 1 tonne:1.6 tonnes). Chinese coke prices are suppressed due to the GOC's 40 per cent export tax that discourages exports of the product. Iron ore is largely imported from Brazil and Australia. The impact of a suppressed coke price reduces the cost price for liquid steel used in the production of billet/slab and subsequent HRC/HRS production.

[26] In an earlier CBSA inquiry into certain flat hot-rolled carbon and alloy steel sheet and narrow strip, CBSA determined that narrow strip was included in the hot rolled steel sheet product segment and that these goods were not priced on a competitive basis in China – refer Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons Confirming the making of final determinations in respect to the dumping and subsidizing of, CBSA, 5 August 2008, P.51 (including Note 109).

On 5 July 2011, the WTO published a WTO Dispute Settlement Panel Report (Report No's WT/DS394/R, WT/DS395/R, and WT/DS398/R) addressing complaints by the United States, European Union and Mexico that China operates a range of export duties (and other instruments including export quotas, export quota administration and allocation, export licensing requirements, and minimum export prices) to restrict exports of certain raw materials by Chinese exporters. It was argued that the export restrictions were inconsistent with China's WTO Accession Protocol. The WTO Disputes Settlement Panel determined that the measures were inconsistent with China's WTO Accession Protocol and requested the WTO Dispute Settlement Body requests "*China to bring its measures into conformity with its WTO obligations such that the 'series of measures' does not operate to bring about a WTO-inconsistent result.*"

The use of the 40 per cent export tax on coke operates to suppress Chinese domestic prices thereby influencing the subsequent selling price for products in which coke is a key ingredient, such as steel slab and/or steel billet which in turn is used to make HRC/HRS before HSS manufacture.

A copy of the WTO Dispute Settlement Reports (No's WT/DS394/R, WT/DS395/R, and WT/DS398/R) is available from the WTO website (www.wto.org). An extract of the Conclusions and Recommendations is included at Non-Confidential Attachment C-1.1.4.

Further, OneSteel ATM has examined CBSA's and USDOC's findings in relation to pricing for raw material input HRC/HRS in China. In its inquiry into CSWP, CBSA received some cooperation from *certain Chinese exporters. These Chinese exporters confirmed that HRS was purchased from "SOEs, domestic-invested enterprises, and private trading companies*". CBSA further established that "*The hot-rolled steel purchased by CSWP producers from the private trading companies is, itself, provided to the private trading companies by producers that are either SOEs or domestic-invested enterprises.*"

On the basis of information available to CBSA (including through cooperation of one exporter that provided information about HRS purchased from a private trading company), it determined that 79 per cent of HRS purchased from private trading companies could be attributed to SOEs[27]. CBSA recently completed a reinvestigation of the initial decision into certain carbon steel welded pipe exported from China[28]. The reinvestigation concluded that certain carbon welded steel pipe sold in China continues to be substantially determined by the government and "*that domestic prices are not substantially the same as they would be if they were determined in a competitive market.*"

In the USDOC CWP investigation, US authorities also considered whether the HRS (i.e. HRC and narrow strip) market includes both HRC and narrow strip. The GOC claimed that USDOC was defining the HRS market too broadly. However, USDOC took the opposite approach and considered that limiting the HRS industry to suppliers of narrow strip defined "the relevant market and industry too narrowly[29]". Further USDOC stated:

> "*The scope of this investigation includes all merchandise with an outside diameter up to 16 inches. CWP is produced by forming flat-rolled steel into a tubular configuration and welding it along the joint. Production of CWP with an outside diameter of 16 inches requires steel sheet with a width of over 1200mm. Therefore, the GOC's position that HRS under 600mm is the relevant input in this case does not comport with the definition of the merchandise under investigation. By accepting the GOC's argument that narrow strip is the relevant input into the production of CWP, we would exclude an analysis of HRS products that are clearly inputs to the merchandise under consideration.*"

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[27] Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons Confirming the making of final determinations in respect to the dumping and subsidizing of, CBSA, 5 August 2008, P. 77.

[28] See Notice of Conclusion of Re-investigation, CBSA, 14 February 2011 – refer Non-Confidential Attachment C-1.1.5.

[29] Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China, 29 May 2008, P.61.

Further:

> *"Finally, we do not find that there are any relevant distinctions between strip under 600mm and strip over 600mm or over to conclude that producers in each category constitute separate industries. As Petitioners note, the GOC's submitted price information evidences that strip 600 mm or wider is sold in the same steel grades as strip less than 600 mm in width. This fact, along with other proprietary information from respondents, indicates that the two products are substitutable.*
>
> *Taken as a whole, this record evidence indicates that it is inappropriate to find that producers of strip below 600mm in width constitute a separate industry as it is relevant to this investigation."*

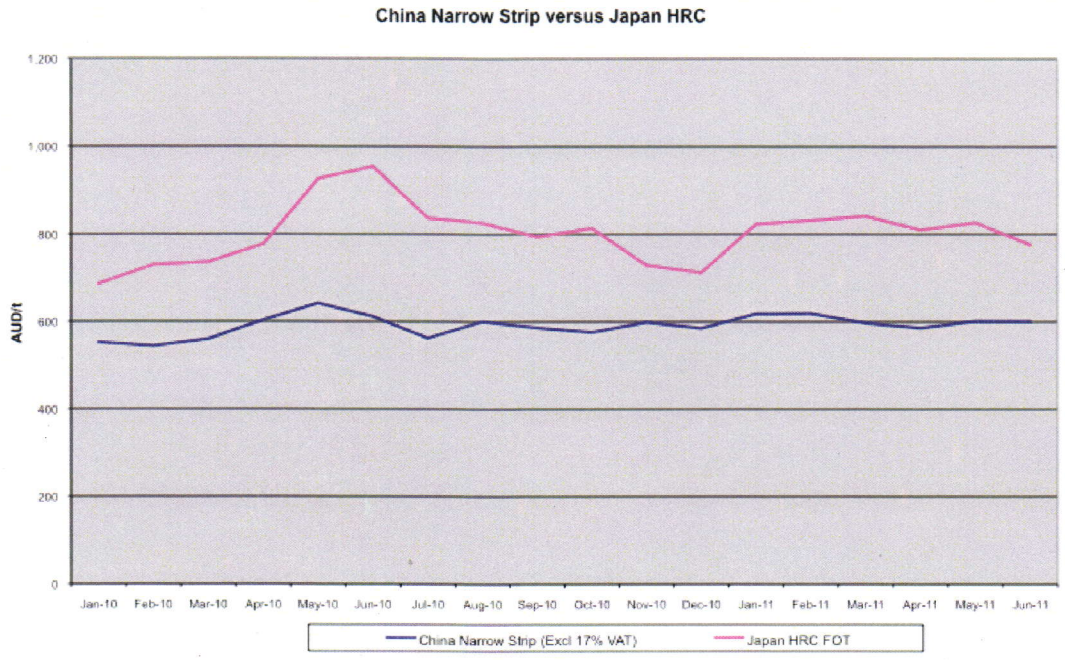
Trade Measures Report No.116 ("Report No.116") makes little reference to the level of state ownership of Chinese HRS producers or the impact of government on pricing in the Chinese HRC/HRS industry. Report No. 116 examined whether exports of HSS from China were at dumped prices. The investigation was not required to examine a claim of subsidization, and hence a full review of GOC subsidy programs and their impact on raw material HRS pricing was not undertaken.

OneSteel ATM is of the view that the information now available – following investigations conducted by CBSA and USDOC – suggests that the GOC actively influences prices in the HRC/HRS industry, through direct and indirect ownership and control, as well as through the use of government policies (e.g. 40 per cent export tax on coke) intended to suppress domestic prices to an extent that they are rendered "artificially low" or not substantially the same as they would be if they were determined in a competitive market.

The WTO Dispute Settlement Panel Report endorses the findings of the CBSA and USDOC that the GOC has utilised, *inter alia*, export taxes to suppress domestic prices for certain raw material products.

OneSteel ATM has utilised the Japan domestic HRC price (at FOT level) as the basis for HRC in its constructed selling price assessment for Chinese HSS exported to Australia. During 2010/11, the Chinese domestic narrow strip price was on average A$200 per tonne (or approximately 26 per cent) lower than the Japan domestic HRC price, on a monthly basis over the period July 2010 to June 2011.

**Figure C-1.1.3.4 – China narrow strip price v Japan HRC price**




Source: SBB

It is therefore demonstrated that Chinese HRC/HRS prices are lower than they otherwise would be in a normal competitive market. As HRC/HRS prices account for up to 80-85 per cent of the production costs of the goods the subject of this application, it may reasonably be concluded that artificially low raw material HRC/HRS prices cause HSS prices to also be at levels well below what they may otherwise be in a normal competitive market. Please also refer to the applicant's comments at Section A-9.7 above that indicate Chinese HSS prices do not appear to recover the full costs associated with converting raw-material HRC/HRS into finished HSS.

OneSteel ATM suggests that the GOC's influence to suppress domestic prices for raw material inputs (i.e. coke and electricity) in combination with the high level of participation of SOEs in the HRC/HRS sector, cause Chinese domestic HRS prices to be artificially low and lower than they otherwise would be in a competitive market.

C-1.1.3.5 Other GOC Subsidy Programs

It is noted that of the 31 Subsidy programs identified by CBSA in its analysis of GOC programs, 24 programs were investigated by Customs and Border Protection in Report No.148. Eight of the subsidy programs identified actioned by CBSA were similarly actioned by Customs and Border Protection. These included[30]:

- Program 1 – Preferential tax policies for enterprises with foreign investment established in the coastal economic open areas and economic and technological development zones;
- Program 6 – Superstar Enterprise Grant;

[30] Program numbers as identified in Report No.148.

- Program 7 – Research & development (R&D) Assistance Grant;
- Program 15 – Goods provided at less than adequate remuneration;
- Program 16 – Preferential tax policies for enterprises with foreign investment established in special economic zones (excluding Shanghai Pudong area);
- Program 18 – Preferential tax policies in western regions;
- Program 21 – Tariff and VAT exemptions on imported materials and equipment;
- Program 26 – Innovative experimental enterprise grant

The absence of a positive finding by Customs and Border Protection in respect of any investigated subsidy program in Report No. 148 does not establish grounds that the program does not apply to Chinese HSS producers. For this reason it is submitted that it would be appropriate for Customs and Border Protection to investigate the 31 programs identified by CBSA in its CSWP investigation.

OneSteel ATM submits that the 31 programs identified by CBSA (ranging from income tax concessions, to VAT and import duty relief, and exemptions from local government taxes) are actionable subsidies. HSS exported from China that has benefited from subsidies has caused material injury to the Australian HSS industry.

It is highlighted with Customs and Border Protection that of the subsidy programs identified at Non-Confidential Attachment C-1.1,4 certain exporters of the GUC to Australia (See Non-Confidential Attachment B-1.4) have received benefits for the production of the goods. The following Chinese exporters are likely to have received subsidy benefits under each of the nominated subsidy programs (detailed in Non-Confidential Attachment C-1.1.4):

| Exporter | Subsidy Program No[1]. |
|---|---|
| CNOOC Kingland Pipeline | 7,8,9,19 |
| Guangdong Wallsall Steel Pipe Industrial | 4,9,14,15 & 19 |
| Pearl River Hot Dipped Galvanising Steel Pipe Factory | 9,14,15,19 |
| Pearl River Steel Pipe | 9,14,15 & 19 |
| Tai Feng Qiao Metal Products (TFQ) | 9, 14,15 & 19 |
| Weifang East Steel Pipe | 9 |

**Notes:**

1. Subsidy Program No. refers to the applicable No. contained in Non-Confidential Attachment C-1.1.4. detailing 31 identified programs.

"Business Credit Reports" obtained for some Chinese HSS manufacturers provide insight into the ownership and financial positions of the companies, including an understanding as to the level of income tax paid in recent years. It is evident that some of the enterprises are receiving exemptions from income tax (other than carried forward losses) due to the level of taxation paid year-on-year.

Please refer to Confidential Attachment C-1.1.6 for Business Credit Reports for the following companies:

- Tianjin Metallurgical No.1 Steel Group Co., Ltd;
- Huludao Steel Pipe Industrial Co., Ltd;
- Hengshui Jinghua Steel Pipe Co., Ltd; and
- Zhejiang Kingland Pipeline and Technologies Co. Ltd.

An analysis of the Reports indicates that Zhejiang Kingland Pipeline and Technologies Co., Ltd, for example, has been provided with award(s) that are accompanied by grant entitlements, and that the level of income tax paid in each of 2008 to 2010 is less than the prescribed company tax rate in China. Similarly, Hengshui Jinghua Steel Pipe Co., Ltd has been awarded certain "Famous Brand" commendations that Customs and Border Protection

has previously determined as evidence of a countervailable subsidy to the beneficiary (in Report 148).

Further, it is noted that Tianjin Metallurgical No. 1 Steel group Co., Ltd has located to a new factory in the Dagang Economic & technological Area. It is known that new investments in "High Technology Parks" or "High Technology Investment Zones" are provided with income tax and financial incentives to locate business operations in the "high technology" areas. The benefits are countervailable subsidies and it is considered that the receipt of the benefits supports reduced export prices of HSS to Australia.

Publicly available information that has been confirmed via Customs and Border protection's inquiry into aluminium extrusions exported from China, the CBSA's investigations into certain welded pipe exported from China, the USDOC's investigations into certain welded pipe (circular and rectangular), and the WTO Appellate Body Report on export taxes for certain inputs, confirms the existence of countervailable subsidies provided by the GOC to Chinese raw material suppliers of primary steel and Chinese manufacturers of HSS.

C-1.1.3.6 Conclusion on Chinese subsidies impacting Chinese HSS prices

OneSteel ATM's examination of Report No.148 and the CBSA's findings on subsidies received by the Chinese producers of CSWP indicate that the GOC continues to provide countervailable subsidies to industry (as evidenced in Report No.148) and that the beneficiaries include Chinese HSS manufacturers as per CBSA findings.

The applicants consider that the impact of the GOC via influence on raw material inputs at less than adequate remuneration (due to SOE ownership in the steel-making and HRC/HRS sectors), and the provision of subsidies via government administered programs provide Chinese HSS manufacturers (as identified by CBSA and Customs and Border Protection in Report 148) with benefits that result in reduced selling prices for HSS in China (and for export). The GOC is able to effectively implement its objectives of rapidly expanding the Chinese domestic steel industry via its high level of government ownership in the raw material steel-making segments of the steel sector. The benefits of the subsidies flow-through to the value-added downstream Chinese producers (i.e. HRC/HRS and HSS manufacturers) through an artificially-low export price position on global markets.

The subsidy benefits (as identified in the subsidy programs investigated by CBSA), when aggregated for each exporter, are considered to be in excess of negligible subsidy margins. It is therefore requested that provisional subsidy measures be applied as appropriate at the earliest opportunity following Day 60 of a formal investigation.

## C-2. Threat of material injury

Address this section if the application relies solely on threat of material injury (ie where material injury to an Australian industry is not yet evident).

1. **Identify the change in circumstances that has created a situation where threat of material injury to an Australian industry from dumping/subsidisation is forseeable and imminent, for example by having regard to:**
    1. **the rate of increase of dumped/subsidised imports;**
    2. **changes to the available capacity of the exporter(s);**
    3. **the prices of imports that will have a significant depressing or suppressing effect on domestic prices and lead to further imports;**
    4. **inventories of the product to be investigated; or**
    5. **any other relevant factor(s).**

This application is not based solely upon a threat of material injury. Material injury to the Australian HSS industry has continued since 2003/04 and represents an ongoing imminent

and foreseeable threat to the Australia HSS industry as HSS imports from the nominated countries increase at a much faster growth rate than the Australian industry sales (that have been negative

OneSteel ATM considers that in the absence of anti-dumping and countervailing measures it is likely that future Australian production of HSS will be substantially reduced. Material injury experienced from dumping and subsidisation is of a greater impact in 2010 due to the reduced market share of the industry and price undercutting resulting in lost profits and profitability

2. **If appropriate, include an analysis of trends (or a projection of trends) and market conditions illustrating that the threat is both forseeable and imminent.**

As indicated above, this application is not based upon a threat of material injury.

## C-3. Close processed agricultural goods

Where it is established that the like (processed) goods are closely related to the locally produced (unprocessed) raw agricultural goods, then – for the purposes of injury assessment – the producers of the raw agricultural goods may form part of the Australian industry. This section is to be completed only where processed agricultural goods are the subject of the application. **Applicants are advised to contact the Dumping Liaison Unit before completing this section ☎ (02) 6275-6066 Fax (02) 6275-6990.**

1. **Fully describe the locally produced raw agricultural goods.**

The goods the subject of this application is not considered 'raw agricultural goods'.

2. **Provide details showing that the raw agricultural goods are devoted substantially or completely to the processed agricultural goods.**

The goods the subject of this application are not considered 'raw agricultural goods, hence this question is not applicable.

3. **Provide details showing that the processed agricultural goods are derived substantially or completely from the raw agricultural goods.**

The goods the subject of this application are not considered 'raw agricultural goods, hence this question is not applicable.

4. **Provide information to establish either:**

- **a close relationship between the price of the raw agricultural goods and the processed agricultural goods; or**
- **that the cost of the raw agricultural goods is a significant part of the production cost of the processed agricultural goods.**

The goods the subject of this application are not considered 'raw agricultural goods, hence this question is not applicable.

## C-4. Exports from a non-market economy

1. **Provide evidence the country of export is a non-market economy. A non-market economy exists where the government has a monopoly, or a substantial monopoly, of trade in the country of export and determines (or substantially influences) the domestic price of like goods in that country.**

China, Malaysia Korea, Taiwan and Thailand are not considered 'non-market economy' countries under Australia's anti-dumping and countervailing provisions.

2. **Nominate a comparable market economy to establish selling prices.**

As the countries of export the subject of this application are not considered 'non-market economy' countries, this question is not applicable.

3. **Explain the basis for selection of the comparable market economy country.**

As the countries of export the subject of this application are not considered 'non-market economy' countries, this question is not applicable.

4. **Indicate the selling price (or the cost to make and sell) for each grade, model or type of the goods sold in the comparable market economy country. Provide supporting evidence.**

As the countries of export the subject of this application are not considered 'non-market economy' countries, this question is not applicable.

## C-5 Exports from an 'economy in transition'

1. **Provide information establishing that the country of export is an 'economy in transition'.**

China, Malaysia, Korea, Taiwan and Thailand are not considered 'economy-in-transition' countries under Australia's anti-dumping and countervailing provisions.

2. **A price control situation exists where the price of the goods is controlled or substantially controlled by a government in the country of export. Provide evidence that a price control situation exists in the country of export in respect of like goods.**

As the countries of export the subject of this application are not considered 'economy in transition' countries, this question is not applicable.

3. **Provide information (reasonably available to you) that raw material inputs used in manufacturing/producing the exported goods are supplied by an enterprise wholly owned by a government, at any level, of the country of export.**

As the countries of export the subject of this application are not considered 'economy in transition' countries, this question is not applicable.

4. **Estimate a 'normal value' for the goods in the country of export for comparison with export price. Provide evidence to support your estimate.**

As the countries of export the subject of this application are not considered 'economy in transition' countries, this question is not applicable.

## C-6 Aggregation of Volumes of dumped goods

Only answer this question if required by question B.1.5 of the application and action is sought against countries that individually account for less than 3% of total imports from all countries (or 4% in the case of subsidised goods from developing countries). To be included in an investigation, they must collectively account for more than 7% of the total (or 9% in the case of subsidised goods from developing countries).

| | Quantity | % | Value | % |
|---|---|---|---|---|
| All imports into Australia | | 100% | | 100% |
| | | | | |
| **Total** | | | | |

The volume of imports of the goods the subject of this application account from each of the nominated countries each account for more than 3 per cent respectively of the total import volume into Australia in 2010/11. In respect of HSS imports from China, the level of imports was greater than 4 per cent of the total HSS import volume into Australia in 2010/11.