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Department of Industry, Innovation and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

REINVESTIGATION OF CERTAIN FINDINGS
REPORT NO. 361

ROD IN COIL
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

November 2016

CONTENTS

ABBREVIATIONS

$	Australian dollars
ADA	*Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*
the Act	*Customs Act 1901*
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	Cost to make and sell
FOB	Free on board
GAAP	Generally accepted accounting principles
Hunan Valin	Hunan Valin Xiangtan Iron & Steel Co., Ltd
Manual	*Dumping and Subsidy Manual*, November 2015
OCOT	ordinary course of trade
PAD	Preliminary Affirmative Determination
Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	*Customs (International Obligations) Regulation 2015*
Review 301	Review of measures ADC 301 – Steel rod in coils exported from the People's Republic of China
REP 301	Report no. 301
SEF	Statement of Essential Facts
Shagang	Jiangsu Shagang Group Co., Ltd
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)

1 INTRODUCTION AND FINDINGS

1.1 Introduction

This report provides the results of the reinvestigation of certain findings in Report No. 301 (REP 301) in respect of steel rod in coils (RIC) exported to Australia from the People's Republic of China (China).

As required by the Anti-Dumping Review Panel (the ADRP), the Commissioner of the Anti-Dumping Commission (the Commissioner) has reinvestigated six specific findings.

The six findings that are subject to reinvestigation are listed below:

- Finding 1: construction of the normal value for Hunan Valin pursuant to subsection 269TAC(2)(c) of the *Customs Act 1901*[1] (the Act): the Anti-Dumping Commission (the Commission) made an upwards adjustment to the surrogated steel billet cost with a 'yield percentage' factor;
- Finding 2: The amount of profit in the constructed normal value for Hunan Valin Xiangtan Iron & Steel Co., Ltd (Hunan Valin);
- Finding 3: The selection of the Latin American steel billet export prices at free on board (FOB) level published by Platts, to substitute the billet costs recorded in the cooperating exporters' cost to make and sell (CTMS) information;
- Finding 4: The conversion of the benchmark price to a benchmark cost by deducting the verified average profit rate realised by Chinese exporters from sales of steel billets;
- Finding 5: The selection of an 'FOB' benchmark, unadjusted for the cost of transport from a factory to the wharf;
- Finding 6: RIC exported to Australia from China at dumped prices caused material injury to the Australian industry producing RIC.

As a result of the reinvestigation of Findings 1 – 5, the Commissioner has made new findings in respect of the dumping margins as provided in Table 1.

Company	REP 301 Dumping Margins	New Dumping Margin
Hunan Valin	44.1%	43.3%
Shagang	37.4%	39.3%

Table 1 Previous and revised dumping margins

As a result of the reinvestigation of Finding 6, the Commissioner affirms the finding in REP 301 RIC exported to Australia from China at dumped prices caused material injury to the Australian industry producing RIC.

[1] A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

2 BACKGROUND

2.1 Investigation 301

On 22 April 2016, following Investigation 301, the then Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary) accepted the findings in REP 301 and published a dumping duty notice in relation to RIC exported to Australia from China.

REP 301 contained the findings that:

- RIC has been exported from China at dumped prices;
- there is an Australian industry producing like goods that has experienced injury;
- the dumped goods have caused material injury to the Australian industry; and
- future exports from China may be dumped and that continued dumping may cause further material injury to the Australian industry.

2.2 Dumping Margins

Two exporters cooperated with the investigation: Hunan Valin; and Jiangsu Shagang Group Co., Ltd (Shagang).

These two exporters accounted for over 95 per cent of the exports of RIC from China to Australia over the investigation period.

The Commission found during the investigation period that:

- both exporters exported RIC to Australia at dumped prices; and
- the volume of dumped goods was not negligible.

Table 2 summarises the Commissioner's assessment of dumping margins for the applicants as indicated in REP 301.

Company	Dumping Margin
Hunan Valin	44.1%
Shagang	37.4%

Table 2 REP 301 dumping margins

3 ADRP REVIEW

3.1 Legislative framework

Division 9 of the Act sets out the procedures for review, by the ADRP, of certain decisions by the Minister or the Commissioner.

In relation to decisions by the Minister, a person who is an interested party [2] may apply for review by the ADRP of a reviewable decision.[3] If an application for review is not rejected, the ADRP must make a report to the Minister on the application by recommending that the Minister:

- affirm the reviewable decision; or
- revoke the reviewable decision and substitute a specified new decision.[4]

Before making a recommendation to the Minister, the ADRP may, by written notice, require the Commissioner to:

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within a specified period.[5]

The Commissioner must conduct a reinvestigation as required by the ADRP and give the ADRP a report of the reinvestigation concerning the finding or findings.[6] The report must:

- if the Commissioner is of the view that the finding or any of the findings the subject of reinvestigation should be affirmed, affirm the finding or findings; and
- set out any new finding or findings that the Commissioner made as a result of the reinvestigation; and
- set out the evidence or other material on which the new finding or findings are based; and
- set out the reasons for the Commissioner's decision.[7]

3.2 Review and reinvestigation

Applications to the ADRP for a review of the decision made by the then Parliamentary Secretary on 22 April 2016 following Investigation 301 were made by:

- OneSteel Manufacturing Pty Ltd (administrators appointed) (OneSteel) on 19 May 2016;
- Shagang on 20 May 2016;
- Vicmesh Pty Ltd (Vicmesh) on 23 May 2016; and

[2] As defined in section 269ZX.
[3] Decisions of the Minister that are reviewable decisions are set out in subsection 269ZZA(1).
[4] Under subsection 269ZZK(1).
[5] Under subsection 269ZZL(1).
[6] Under subsection 269ZZL(2).
[7] Subsection 269ZZL(3).

- Hunan Valin on 23 May 2016.

On 21 June 2016, the ADRP published a notice under subsection 269ZZI(1) indicating its proposal to conduct a review.

On 22 August 2016, the ADRP, in conducting its review, wrote to the Commissioner requiring the Commissioner to reinvestigate specific findings that formed the basis of the reviewable decision.

The specific findings the Commissioner has reinvestigated as required by the ADRP, and any new findings that the Commissioner has made as a result of the reinvestigation, are set out in this report.

4 REINVESTIGATION

4.1 Finding 1

In its application for review, Hunan Valin contends that the Commission had separately calculated and applied a *conversion cost percentage* based on the actual cost difference between the unit cost of billet and the unit cost for RIC, as part of its inclusion of the surrogate steel billet cost in Hunan Valin's normal value construction. Hunan Valin claims that this *conversion cost percentage* incorporates a *yield loss* as well as other costs of conversion. Hunan Valin claims that the surrogate billet costs do not need to be further adjusted upwards in the normal value construction to account for the yield loss, as this would amount to double-counting.

The ADRP has required the Commissioner to reinvestigate this issue by taking into consideration Hunan Valin's concerns and submissions in this regard, as well as all other parties' submissions. The ADRP further requested that if Hunan Valin's claims in relation to the yield percentage adjustment are found to be valid, the Commission should remove the yield percentage uplift and recalculate the normal value and corresponding dumping margin for Hunan Valin.

4.1.1 The Commission's analysis

The Commission reinvestigated Hunan Valin's claim that the conversion cost percentage incorporated any yield loss. The Commission found that Hunan Valin's conversion cost calculations in **Confidential Appendix 1 – Hunan Valin conversion cost** include, among other costs of conversion, a negative offsetting amount for by-products. That is, Hunan Valin records the value of by-products that are derived from the conversion of billet to RIC and offsets this against its conversion costs. The Commission considers that this cost offsetting amount, contrary to Hunan Valin's claim, is effectively reducing Hunan Valin's cost of material that is lost in the conversion process. The Commission considers that the yield loss is an actual cost incurred by Hunan Valin in conversion of the billet to RIC and was not captured by Hunan Valin's in its conversion cost factor. Consequently, the Commission considers that it is reasonable to uplift the cost of billet after substitution with the verified percentage of yield loss.

4.2 Finding 2

Finding 2 is in relation to the amount of profit in Hunan Valin's constructed normal value.

In its application for review, Hunan Valin contended that in calculating its constructed normal value, the Commission used an incorrect profit ratio.

The ADRP noted that in the Commissioner's submission, it is acknowledged that there was a mathematical error in the calculation of Hunan Valin's profit and the Commission updated its calculations in **Confidential Attachment - Hunan Profit**.

The ADRP requested the Commissioner to include this updated profit calculation in the reinvestigation report and recalculate the normal value for Hunan Valin. The ADRP further requested consequential amendments to the ascertained normal value and dumping margin for Hunan Valin.

4.2.1 The Commission's analysis

The Commission reinvestigated the calculation of profit in Hunan Valin's constructed normal value and confirms that there was a mathematical error in the calculation of profit in REP 301.

The correct rate of profit is [redacted] per cent and not [redacted] per cent as indicated in REP 301. The updated calculation is included in **Confidential Appendix 2 – Hunan Revised Profit**.

The Commission re-calculated Hunan Valin's normal values and dumping margin following the changes in Hunan Valin's profit rate and the deduction of an inland transport component from the selected Latin American steel billet benchmark as explained in section 4.5 of this report.

4.3 Finding 3

Finding 3 relates to the selection of Latin American steel billet export prices at FOB level published by Platts to substitute billet costs recorded in the cooperating exporters' CTMS information.

The ADRP notes that there was a change in the selected benchmark between SEF 301 (wherein the selected benchmark was the East Asian Billet cost and freight (CFR) price) and REP 301 (wherein the selected benchmark is the Platts Latin American steel billet FOB price).

Vicmesh, in its application for review, challenged the Commission's selection of the Latin American steel billet FOB export price as the surrogate billet cost. The ADRP required the Commissioner to reinvestigate this issue, taking into consideration Vicmesh's claims in this regard.

The ADRP required the Commissioner to take into consideration the claims made by OneSteel in its application for review. In particular, OneSteel's contention that it is not consistent with World Trade Organisation (WTO) best-practice, or even the Commission's policy and practice, to base an external competitive benchmark for market costs on an 'export' price index, rather than on a competitive price benchmark that is reflective of domestic market conditions (such as Mexican, Canadian or United States domestic billet prices available from MEPS (International) Ltd). The ADRP further required the Commission to take in account all other parties' submissions on this issue, both to the ADRP and to the Commission in Investigation 301.

The ADRP requested that, if as a result of the reinvestigation, a different benchmark is selected for steel billet, the Commissioner should also make any consequential amendments to ascertained normal values and dumping margins.

4.3.1 The Commission's analysis

4.3.1.1 Change in selected benchmark after SEF 301

The Commissioner maintains that, if the prices in a certain market have been affected by dumping or other influences which may have artificially lowered prices, the price index derived from that market is unsuitable for establishing competitive market costs. The Commission's decision to change the steel billet benchmark was a result of new evidence that became available after the SEF that demonstrated that the East Asian billet benchmark was significantly influenced by billet exports from China, which are subject to the same distortionary effects discussed in the market situation finding in Investigation 301. The Commission considers that the high level of trade, as well as the substitutability and homogeneity of steel billet, results in distortions that are present in the Chinese market also being present in other markets. Given the significant influence that exports of Chinese steel billet have on the East Asia billet benchmark, the Commission maintains that changing the steel billet benchmark was the correct and preferable approach given that new evidence showed that the previously selected East Asian steel import prices were not suitable to establish competitive market costs for steel billet.

4.3.1.2 Reinvestigation of benchmark selection

4.3.1.2.1 Export price as benchmark

OneSteel claimed in its application to the ADRP that the Commission should have used a domestic benchmark for steel billet, rather than an export price index. In the investigation, the Commission considered various alternative benchmarks to determine competitive market prices of steel billet. These alternatives included domestic steel prices as well as import and export prices in China and other countries.

In SEF 301 at page 19 the following was stated:

> *The Commission considers that direct and indirect influences of the GOC affect Chinese manufacturers' costs to produce steel billet. The Commission has found that steel billet costs comprise 80 to 85% of RIC CTMS.*
>
> *Accordingly, to account for the effects of the GOC's influence, the Commission has replaced Chinese manufacturers' steel billet costs with appropriate competitive market costs for steel billets. The Commission assessed the appropriate competitive market cost in accordance with the World Trade Organization (WTO) Appellate Body findings, which suggest the following methods (in order of preference):*
>
> - *private domestic prices;*
> - *import prices; and*
> - *external benchmarks.*

This is consistent with the approach described in the *Dumping and Subsidy Manual*, *November 2015* (the manual) where it is stated at pages 45 – 46:

> *The Commission will first look to information in the country of export when calculating a price for the major cost input. In the context of a major input being supplied by government, and a decision has been taken that the supply is not reflecting a competitive market price of that input, a substitute value for a major cost input may be ascertained using:*
>
> - *the price constructed from any other relevant information including price lists, independent sources (including trade publications, trade statistics), earlier dumping investigations;*
> - *the price of the major cost input supplied by a non-government-owned enterprise in the country of export to the exporter;*
> - *the price of the major cost input supplied by a non-government owned enterprise in the country of export to other exporters in that country;*

- *the price of the major cost input supplied by a non-government owned enterprise in the country of export to an appropriate third country;*
- *the price of goods that are like the major cost input manufactured and sold for domestic consumption in a surrogate country ;*
- *the price of goods that are like the major cost input manufactured and sold for export consumption in a surrogate country;*
- *the constructed price of a major cost input in any of the situations listed above;*
- *the price for goods that are like the major cost input, manufactured and sold in Australia.*

In SEF 301 at page 19 it was stated that private domestic prices of steel billet in China are affected by government influence and therefore do not reflect competitive market costs. It was also stated that due to the lack of import penetration in China of steel billets and the likelihood that import prices were similarly affected by the GOC influence on domestic prices, import prices in China were not suitable substitutes to use as benchmarks for steel billet prices. The general approach in SEF 301 in respect of the selection of a suitable benchmark was maintained in REP 301.

The Commission has found that trade remedy, safeguard and other non-tariff measures as well as government support on a wide range of steel products made from billet are in force in the USA, Canada, Mexico, India and South Africa. This indicates that steel billet in those countries is produced by industries operating in markets where prices do not reflect competitive conditions. As such, domestic prices of steel billet in those countries do not appear to be suitable benchmarks for the purpose of substituting Chinese steel billet costs.

The Commission considers that an export price is are more likely to reflect competitive market conditions and is more likely to be a suitable benchmark.

4.3.1.3 Selection of information provider

OneSteel indicated in its application that the Commission should have used information from MEPS (International) Lte (MEPS).

MEPS publishes domestic steel billet prices for the following countries:

- China;
- India;
- Iran;
- Pakistan;
- South Africa;
- Taiwan;
- Turkey.

The Commission notes that steel billet is a commodity product. Due to the highly competitive nature of world steel markets, domestic prices, as well as import prices and export prices of steel billet (and most other steel commodity products) are well known and that MEPS is not the only subscription service that publishes steel billet prices.

In Investigation 301, the Commission utilised another subscription based service, Platts SBB, to analyse potential benchmarks for billet costs. The following potential billet benchmarks were obtained from Platts SBB:

- Turkey export billet – FOB terms;
- Turkey import billet – Cost and freight terms (CFR) Turkish port;
- Billet - FOB terms Black Sea;
- China domestic billet - Tangshan (including 17 per cent valued added tax);
- East Asia import billet - CFR terms;
- Latin America export billet - FOB terms Latin American port; and
- LME billet (65 tonne lots) - three month bid/offer.

The Commission has not found any evidence to indicate that MEPS provides information that is superior to Platts.

4.3.1.4 Selection of country for benchmark

In its application to the ADRP, Vicmesh claims that the benchmark selected by the Commission is unreasonable.

The Commission notes that the investigation period of Investigation 301 coincides with a timeframe in which a number of countries that have domestic steel industries started to experience competitive pressure from Chinese imports and imposed, or started to impose, trade remedy or safeguard measures. Lists of trade remedy, safeguard and other non-tariff measures that are in force in South Africa, USA, Canada, India and Mexico are provided in **Attachment 2 – Measures in Place**.

Government support and other measures in place in the USA, Canada, Mexico, India and South Africa indicate that steel billet prices in those countries do not reflect competitive conditions. The Commission considers that export prices in those countries are also affected by that government activity and may not reflect competitive market conditions. As such, domestic and export prices of steel billet in those countries do not appear to be suitable to use as benchmarks for the purpose of substituting Chinese steel billet costs.

The Commission considers that steel billet markets in Iran, Pakistan, Taiwan, Canada, Mexico and South Africa are relatively small and, as such, do not have the same competitive characteristics as larger markets.[8]

4.3.1.4.1 Chinese and East Asian steel billet prices

As indicated in REP 301 and discussed above, the Commission has found that the price of Chinese billets does not reflect competitive market costs. The Commission also found that East Asian billet prices are heavily influenced by Chinese exports.

The Commission considers that Chinese and East Asian billet prices are not suitable substitutes for billet costs.

[8] Source: World Steel Association - *World Steel in Figures 2014* (www.worldsteel.org)

4.3.1.4.2 Black Sea and Turkey

The Commission has analysed the correlation between East Asian billet prices and Black Sea, Turkey and Latin America billet prices in the investigation period. The Commission's findings are set out in Table 3.

Country or region	Correlation
Black Sea	98.05%
Turkey	97.97%
Latin America	91.27%

Table 3 Price movement correlation to East Asian billet price movement

The Commission has found a high level of correlation between billet prices in all three areas and East Asian billet prices. However, the Commission notes that the degree of correlation of the Black Sea and Turkish billet prices to East Asian billet prices is higher than that of Latin America.

The Commission considers that the proximity of Turkish and Black Sea ports to each other results in trade, competition and arbitrage in the region that is reflected in the high degree of correlation between movements in East Asian billet prices and movements in Black Sea and Turkey billet prices respectively. It also suggests billet prices in the Black Sea and Turkey regions are affected by common factors. In REP 301 it was found that in Turkey it is highly likely that Chinese billet prices have distorted prices because of significant volumes of Chinese steel billets being traded there. The lower correlation coefficient for Latin America indicates that is it less likely that steel billet prices there are affected by Chinese steel billet prices.

The Commission considers that both Turkish and Black Sea billet prices have been distorted by Chinese steel billet prices and are not suitable benchmarks for the purpose of substituting Chinese steel billet costs in the investigation period.

4.3.1.4.3 Latin America

The reasons in REP 301 for selecting a Latin American benchmark were:

> *The World Steel Association's statistics shows that in excess of 63 million tonnes of crude steel was produced in the Latin American region in 2014.[9] The Latin America region includes Brazil and Mexico which are two of the world's top steel producing countries based on crude steel production volumes. Consequently, the Commission considers that the Latin America region has sufficient volumes to reflect competitive market conditions. In addition, the Commission notes there are significant reserves of iron ore within the Latin America region which are mined and exported in large volumes. Of the iron ore exported from Central and Southern America, over half was directed to China, and the amount directed to China was greater than the amount consumed regionally.*
>
> *The Commission considers this reflects a consistent cost point for a significant raw material that is included in the cost of steel billet, thus improving comparability. The use of an FOB measure also mitigates the concerns raised by exporters regarding*

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[9] www.worldsteel.org

> *the inclusion of overseas freight costs within the benchmark which would unduly overstate the substituted amounts. The Latin American benchmark has the additional benefits of being geographically removed from China's influence, and having large sources of iron ore locally comparable to the ore sourced by China (which was found during the investigation to be generally from Australia). Based on the size of the market and the geographic distance from China minimising the potential distortions of GOC* [Government of China] *influenced billet prices impacting on the Latin American billet export prices, the Commission considers that Latin American export billet prices in FOB terms represent the best available information on competitive market costs of steel billets.*
>
> *The Commission considers that the Latin American benchmark is a competitive benchmark that has not been identified as being affected by Chinese prices due to the following factors:*
>
> - *geographic distance from Asia limiting the distortionary effects of the GoC on the iron and steel industry;*
> - *significant production levels generating a 'deep' trade market and a relatively high level of competition; and*
> - *the existence of anti-dumping and trade remedy cases from Latin America on Chinese steel products.*

The Commission considers that these reasons remain appropriate and therefore does not consider that changing the benchmark is required.

The Commission made the appropriate adjustments to the Latin American steel billet export price benchmark for domestic profitability of Latin American manufacturers and inland transportation costs (see Findings 4 and 5). The Commission considers that the Latin American steel billet export prices constitute the best available information for establishing competitive market costs for steel billets after adjustments for exporters' profits and inland transportation costs.

4.4 Finding 4

Finding 4 is in relation to the conversion of the benchmark price to a benchmark cost by deducting the verified average profit rate realised by Chinese exporters from sales of steel billets.

In REP 301 it is stated:

> *The Commissioner considers it reasonable to deduct the verified average profit rate realised by Chinese exporters from sales of steel billets in order to calculate the competitive market costs for steel billets. This is consistent with the Commissioner's approach to utilising actual verified domestic profit rates in domestic sales of like goods when constructing normal values.*

In REP 301, the Commission converted the price benchmark into a cost benchmark (since the exporters are vertically integrated and produce, not purchase, the billets, and the benchmark is a substitution for the billet costs recorded in the exporters' CTMS) by deducting the verified average profit rate realised by Chinese exporters from sales of steel billets.

In its request for reinvestigation, the ADRP commented that there would appear to be no basis to use the profit rate realised by Chinese exporters from sales of steel billets, which is unrelated to the benchmark in question. The ADRP requested, if in reinvestigating

Finding 3, the Commission's selection of the benchmark remains that of the Platts Latin American steel billet FOB price, the Commission to reinvestigate this issue, and to recalculate the cost benchmark by deducting an amount of profit of the Latin American sellers of the billet that are the subject of the competitive benchmark, instead of deducting the verified average profit rate of Chinese exporters from sales of steel billets.

The ADRP also requested that any consequential amendments to ascertained normal values and dumping margins to be made.

4.4.1 The Commission's analysis

The Commission has recalculated normal value by deducting a profit rate achieved by Latin American exporters of steel billets. In doing so, the Commission identified five major steel exporting companies located in Latin American region.

Table 4 shows companies identified as major steel producers and exporters in the Latin American region:

Country	Company
Brazil	Gerdao
Mexico	Altos Hornos de México (AHMSA) (Steel Section only)
Brazil	Companhia Siderúrgica Nacional (CSN)
Venezuela	Siderúrgica de Venezuela S.A (Sivensa)
Multiple South American locations	Ternium

Table 4 Latin American steel companies

Given that the Commission was not in possession of any verified information in relation to any of these companies, the Commission then, for each of these companies, calculated the average profit rate achieved during the investigation period of REP 301 (July 2014 to June 2015) using publicly available information published in these companies' 2014 and 2015 earnings releases and annual reports. These earning releases and annual reports are collated in **Attachment 3**.

The Commission calculated that the average profit realised by the above Latin American steel producers between 2014 and 2015 was **-1.7 per cent**. The calculation of this profit rate is at **Confidential Appendix 3 - Latin American profitability**.

As the average profit rate is calculated to be a negative value, the Commission considers that the normal values of Chinese exporters should be re-calculated using an average profit rate of **zero per cent.** The Commission re-calculated each cooperating Chinese exporter's normal values and dumping margins based on the result of this reinvestigation finding.

4.5 Finding 5

Finding 5 is in relation to the selection of a benchmark on FOB terms, unadjusted for the cost of transport from a factory to the wharf.

The Commission changed the benchmark that it had selected in SEF 301(the East Asian Billet CFR Price) in REP 301 to the Platts Latin American steel billet FOB price. One of the reasons for the change was that the East Asian benchmark included overseas freight costs, which the Commission claimed in REP 301 was *impossible to remove with a sufficient degree of certainty*, making it less appropriate to use as a benchmark.

In selecting the Platts Latin American Billet FOB export prices, it was stated in REP 301 that this benchmark is calculated on an FOB basis and, as such, *removes any concerns regarding overseas freight being included*. Vicmesh, in its application for review, contends that an FOB price would include the cost of transport from the factory to the wharf which does not *equate to a domestic integrated mill cost to make billet*. In its submission to the ADRP, the Commission stated that:

> *In regard to the comments relating to freight cost not been removed from the Latin American benchmark, I make the following observations. Firstly, while it is not possible to remove all freight from the Latin American benchmark the Commission's selected benchmark is at a level of trade which minimises additional freight costs. I consider the freight values of the benchmark are less distortionary in the currently utilised benchmark (FOB, Latin America) then they would be in the benchmark utilised in SEF 301 (CFR, East Asia). The CFR benchmark would contain additional overseas freight values which are not present in the FOB benchmark*.

The ADRP requested the Commissioner to reinvestigate the cost of inland transportation and to make an appropriate downward adjustment to the benchmark for the cost of transport from the factory to the wharf.

The ADRP also requested that any consequential amendments to ascertained normal values and dumping margins to be made.

4.5.1 The Commission's analysis

The Commission notes that the selected benchmark for steel billet prices pertains to the whole Latin American region. As the data for this benchmark is derived from a region rather than a single country, and as the exporters in the Latin American region are scattered around the entire Latin American region, the Commission considers that it is not possible to accurately estimate an inland transportation cost that would reflect the actual inland transportation costs. Instead, the Commission considers that an average verified cost of inland transportation expressed as a percentage of the FOB export price represents a reliable and reasonable estimation of typical inland transport costs.

The Commission verified inland transportation costs of steel reinforcing bar manufacturers in seven different countries as part of Investigation 264. The Commission considers that the inland transportation costs of steel reinforcing bars and steel billets should be identical given that both commodities are transported in bulk using similar types of transport methods and equipment. Table 5 indicates the proportions of inland transport costs with respect to the FOB export price from the cooperating exporters of Investigation 264.

Exporter and Country	Cost of Inland Transportation (expressed as a percentage of FOB export price)	Note
Daehan from Korea:	[redacted]% of the FOB export price	
Amsteel from Malaysia:	[redacted]% of the FOB export price	
Natsteel from Singapore:	[redacted]% of the FOB export price	
Celsa from Spain:	[redacted]% of the FOB export price	
Power Steel from Taiwan:	[redacted]% of the FOB export price	
Milcon from Thailand:	[redacted]% of the FOB export price	
Habas from Turkey:	[redacted]% of the FOB export price	[redacted]

Table 5 Latin American steel companies

Based on the figures in Table 5, the Commission calculated that the average cost of inland transport is **1.08 per cent** of the FOB export price

The Commission therefore re-calculated the normal values and the corresponding dumping margins by deducting the cost of inland transportation from the Latin American steel billet benchmark for each exporter.

Hunan Valin's export prices are in **Confidential Appendix 4 – Hunan revised export price**.

Hunan Valin's revised constructed normal value calculations are in **Confidential Appendix 5 – Hunan revised NV construction.**

Hunan Valin's normal value summary table is in **Confidential Appendix 6 – Hunan NV summary**.

Hunan Valin's revised dumping margin calculations are in **Confidential Appendix 7 - Hunan Revised Dumping Margin.**

Shagang's export prices are in **Confidential Appendix 8 – Shagang export price**.

Shagang's normal value calculations and adjustments are **Confidential Appendices 9 and 10 – Shagang NV and Adjustments**

Shagang's revised dumping margin calculations are in **Confidential Appendix 11 – Shagang Revised DM.**

The dumping margins following the re-calculations are provided in Table 6.

Company	Revised Dumping Margin
Hunan Valin	43.3%
Shagang	39.3%

Table 6 Revised dumping margins

4.6 Finding 6

Finding 6 is the finding that RIC exported from China at dumped prices caused material injury to the Australian industry producing RIC.

4.6.1 Non-dumped imports

The ADRP requested the Commissioner to reinvestigate the impact of non-dumped imports on injury in accordance with subsection 269TAE(2A)(a) and reminded the Commissioner that any such injury must not be attributed to the exportation of non-dumped goods. The ADRP referred the Commissioner to Shagang's application for review for more details in this regard as well as to Vicmesh's application for review. The ADRP also directed the Commissioner to take into consideration WTO jurisprudence on non-attribution.

4.6.1.1 The Commission's reinvestigation

The Commission has reinvestigated the impact of non-dumped imports on injury in accordance with subsection 269TAE(2A)(a) having regard to Shagang and Vicmesh's applications for review.

Both Shagang and Vicmesh stated that injury must not be attributed to the exportation of non-dumped goods and referred to imports from New Zealand and Indonesia and the significant market share they represent.

Chart 1 and Chart 2 show imports of RIC between 1 January 2011 and 30 June 2015 based on data from the Australian Border Force (ABF) import database.

Chart 1 and Chart 2 indicate that the volumes of RIC exported to Australia from New Zealand and Indonesia have declined while China increased its RIC exports significantly during the investigation period. The Commission considers that this supports the attribution of injury to RIC exported to Australia from China rather than to other countries, particularly New Zealand and Indonesia.

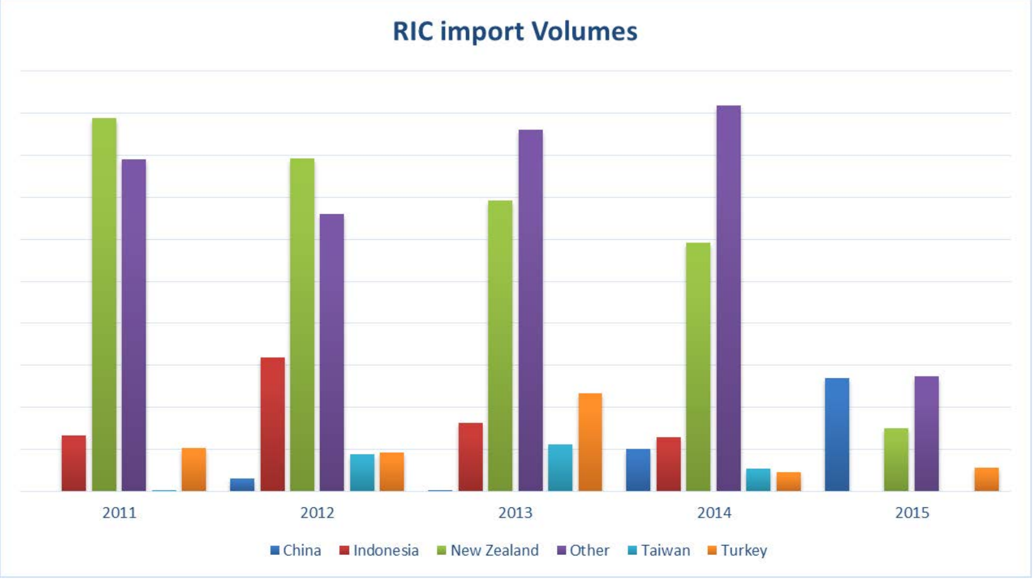

Chart 1 RIC import volumes

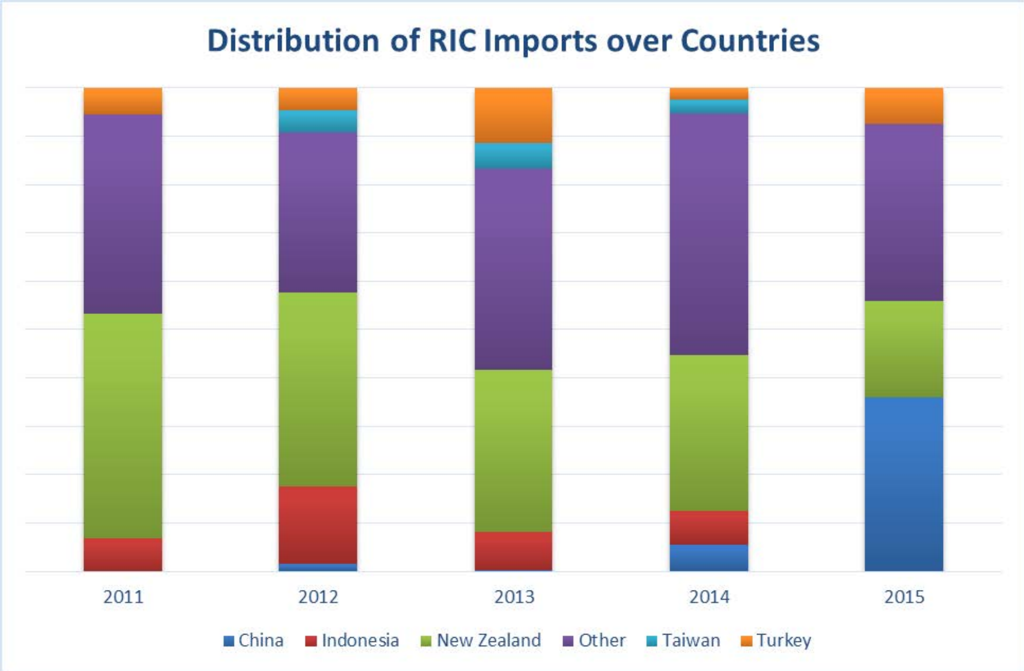

Chart 2 RIC import shares

Chart 3 indicates that the weighted average price of imports of RIC from all other countries have been well above the weighted average prices of RIC from China in 2014 and 2015.

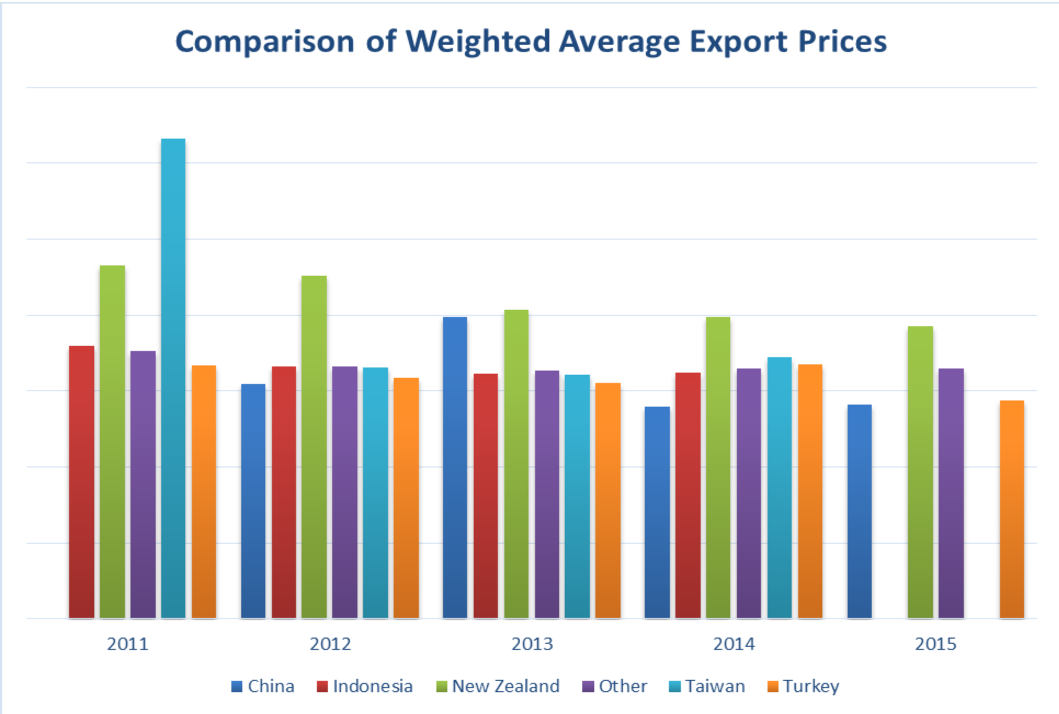

Chart 3 Weighted average RIC export prices

It is evident that Chinese RIC has been imported at the lowest price points. Further details are at **Confidential Appendix 12 - ABF Import Statistics.**

The Commission also reviewed verified data from importers of RIC from China and affirms that Chinese RIC offers have been consistently recorded at price points which are below those from other countries. The data and analysis for free into store RIC sales from major exporting countries and OneSteel are in **Confidential Appendix 13 – Price undercutting analysis.**

Chart 4 indicates that the lowest price offers for RIC in the Australian market between July 2014 and September 2015 were consistently for Chinese RIC compared to OneSteel's prices. It also indicates that the number of occasions that Chinese RIC has been offered in the Australian market has grown since April 2015 indicating increasing activity by importers of Chinese RIC in the Australian RIC market

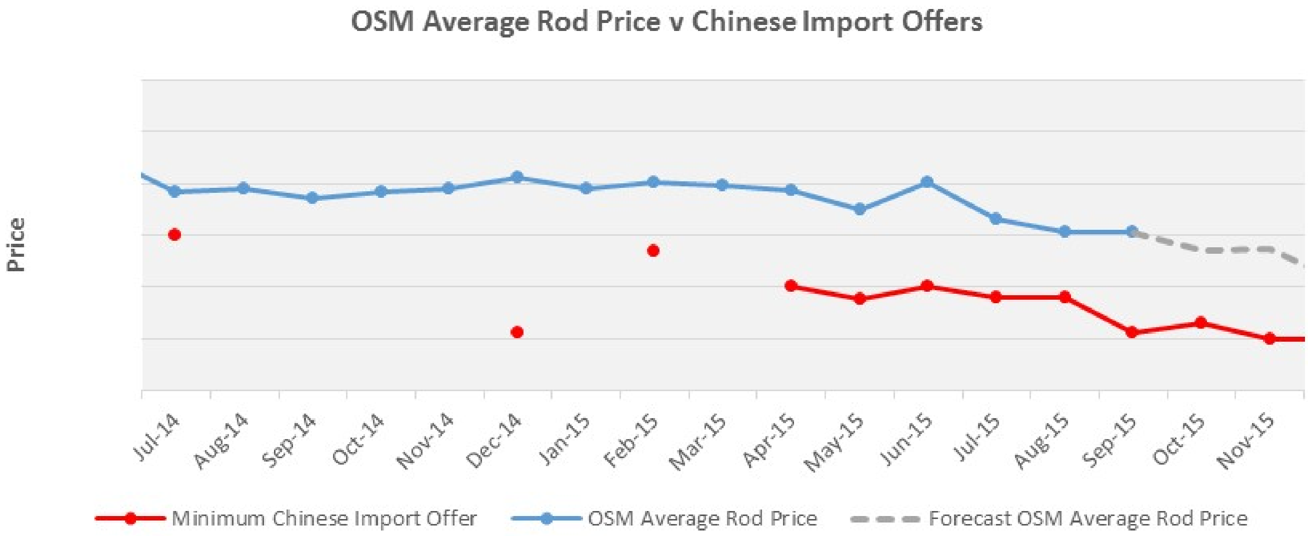

Chart 4 OneSteel RIC price offers cf Chinese RIC price offers

Chart 5 indicates that since July 2014 Chinese RIC consistently undercut RIC from other countries.

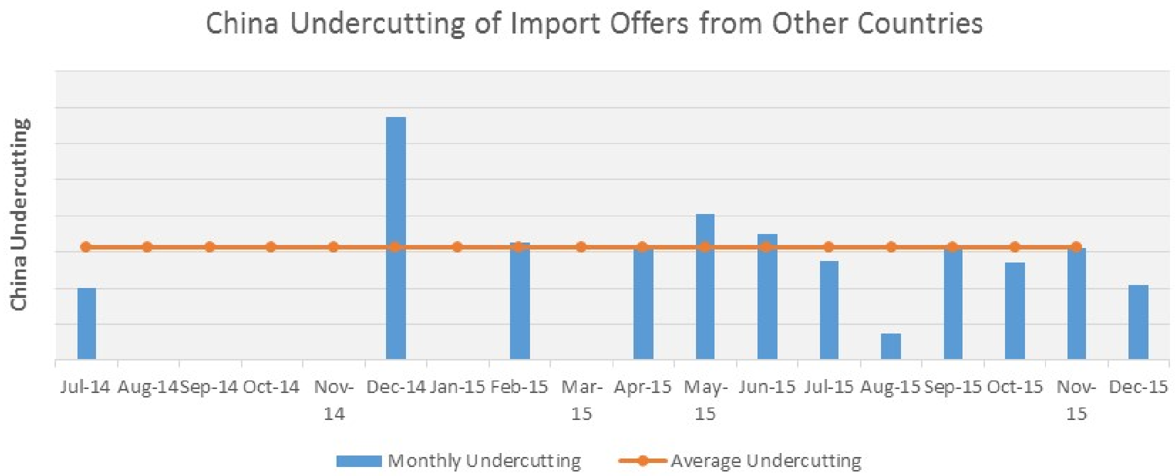

Chart 5 Chinese RIC price undercutting

Chart 6 indicates the price advantages of imported RIC over OneSteel. The amount of undercutting of OneSteel's RIC prices by Chinese RIC was consistently greater than the amount of undercutting by RIC from other countries.

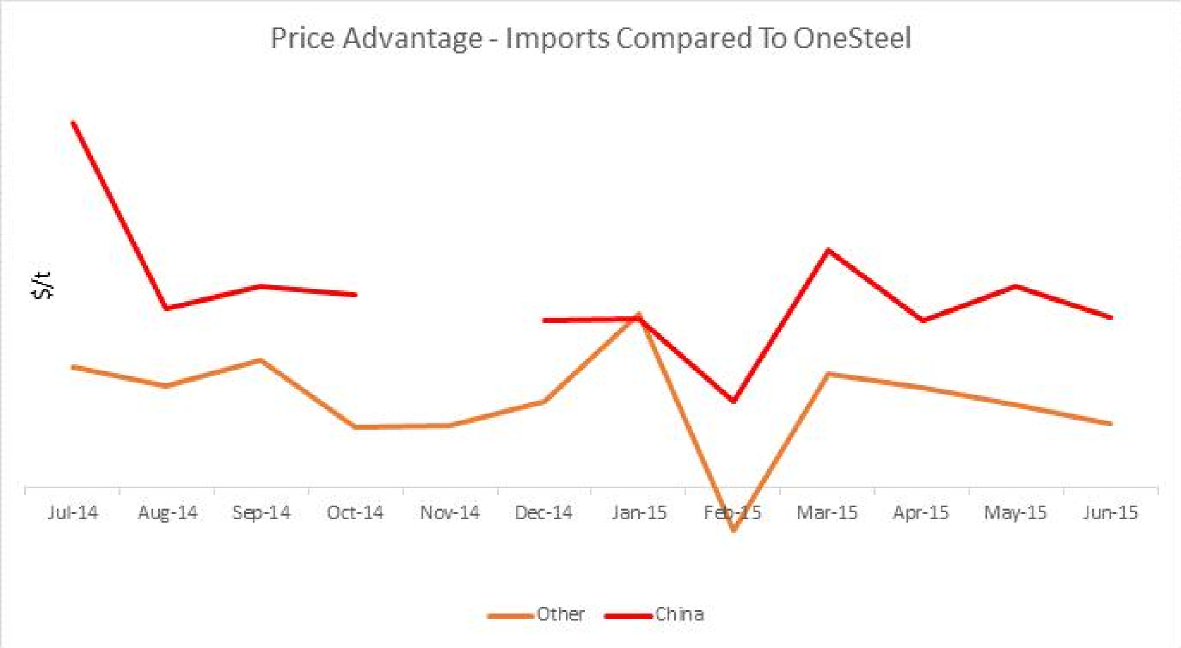

Chart 6 RIC Import price undercutting

The Commission has also conducted further analysis of price undercutting by imports of RIC from China and other countries. Details of this further analysis are at **Confidential Appendix 14 – Further Price Undercutting Analysis**.

Based on the evidence described above, the Commission affirms the findings as described in REP 301 that over the investigation period:

- Chinese RIC has been imported at the lowest price point per month within the Australian market;
- Chinese RIC offers in Australia have been recorded at price points which are below other export country offers;
- Chinese RIC has taken a significant share of the import market, demonstrating the success of the price undercutting strategy;
- OneSteel revenue per tonne over the period has reduced and would have been higher but for dumping;
- exporters of Chinese RIC have acknowledged that prices are set based on marginal costing domestically, and export prices are based upon the domestic prices received; and
- since entering the market, Chinese RIC has gained significant market share at the expense of other exporting countries.

The Commission affirms the finding that RIC exported to Australia from China at dumped prices significantly undercut OneSteel's prices which, in turn, resulted in lower prices achieved by OneSteel. The Commission also affirms the finding that RIC exported to Australia from China at dumped prices undercut importers of RIC from other countries.

4.6.2 *But for* methodology

The ADRP requested the Commissioner to reinvestigate the use of *but for* methodology, in relation to causation. The ADRP referred the Commission to the discussion of this *alternate analytical* method described in the manual, where it is stated that any alternate method *will be required to be evidence based* and will require a *compelling explanation* as to why causation exists notwithstanding the absence of any coincidence. The ADRP directed the Commissioner to also take cognisance of WTO jurisprudence on this issue and the following discussion of the *but for* analytical method in the manual:

> *Under a 'but for' analytical method it may be possible to compare the current state of the industry to the state the industry would likely have been in if there had been no dumping. Such analysis also inquires about the likely effects of the dumping or subsidisation alone. Parties submitting information to demonstrate injury based on 'but for' grounds must provide, and explain, the evidence on which this claim rests. For example, how they estimated the effects of the dumping by using suitable accounting methods and counterfactual analysis. It is not sufficient to simply assert such an effect as this will not meet the evidentiary requirement*.

4.6.2.1 The Commission's reinvestigation

In REP 301 the Commission found injury in the forms of:

- price depression;
- price suppression;
- less than achievable profits and profitability;
- reduced employment; and
- reduced value of assets employed in the production of RIC.

The Commission considers that despite there being a coincidence of dumping and injury, it was appropriate to also apply the *but for* method in its analysis of injury and causation.

The Commission found that injury coincided with dumping. In order to determine if the injury caused by dumping was material, and to further consider causation issues, the Commission also conducted a *but for* analysis. In this analysis it became apparent that OneSteel's prices were undercut by imports of RIC from China at dumped prices and it would have performed better but for that dumping. In section 7.5 of REP 301, the Commission indicated that dumped exports of RIC from China were a direct cause of price depression and price suppression suffered by OneSteel, as well as an indirect cause due to the effect on the prices of RIC exported from Investigation 240 countries, and that if the value of the dumping margin was added to the prices of imported RIC, no undercutting of OneSteel's prices would have occurred. The undercutting analysis was based on evidence that was positive as defined by the US Appellate Body report on hot rolled steel as referred to by Shagang in its application to the ADRP (in Attachment B on the fourth last page). That is, the evidence is of an affirmative, objective and verifiable character and is credible.

In REP 301 at section 7.5 it is stated that:

> *OneSteel has provided comprehensive evidence to the Commission of its price setting practices. This evidence indicates that it constantly monitors price offerings in the market and that a key determinant for its prices to external customers was the price of imports.*

This information was verified at the visit to OneSteel.

In order to analyse and test further whether OneSteel would have performed better but for dumping, the Commission analysed the effect of dumping on injury in terms of price effects in section 7.5 of REP 301. This analysis confirmed that that was the case and indicated that:

> *in the investigation period, if the value of the dumping margin was added to the prices of imported RIC, no undercutting of OneSteel's prices would have occurred.*

In section 7.6 of REP 301 it was stated that:

> *OneSteel recorded losses over the investigation period on a weighted average basis, and improvement in profits in the form of reduced losses were driven by cost efficiencies as prices continued to fall.*
>
> *This in turn has impacted negatively on OneSteel's profits and profitability over the investigation period, as the Commissioner considers that OneSteel's unit revenue would have improved if the price suppression and depression were not occurring. Therefore, the Commissioner considers that OneSteel has suffered injury in the forms of reduced profits and profitability and that injury was caused by sales of RIC exported from China at dumped prices.*

The Commission considers that it is reasonable for the Australian industry to expect to operate profitably and in REP 301 the Commission analysed whether, and how, the absence of sales of RIC exported to Australia from China at dumped prices would have impacted on the Australian industry's performance. The Commission considers that it conducted this analysis in an objective manner and relied on facts and verified evidence (including confidential and non-confidential information) as the basis for any inferences and findings made in REP 301 and in this reinvestigation report. The analysis was based on positive evidence and not on unsubstantiated assumptions.

It its analysis of causation, the Commission analysed price undercutting and found that price undercutting caused injury in the forms of price depression and price suppression as well as less than achievable profits and profitability. The evidence used to conduct this analysis included:

- verified sales data from OneSteel to determine sales levels and prices it achieved;
- evidence of market intelligence related to price offers in the Australian RIC market to determine prices offered by importers of RIC from China and from other countries;
- verified information from OneSteel, importers and exporters of RIC to determine competitive market conditions and practices, dumping margins and price setting processes;
- verified production and cost data from OneSteel to determine production levels and profitability;
- verified data on revenue and costs from OneSteel to determine profits it achieved;
- OneSteel's Annual Reports to determine target profits and returns;
- *Arrium Recapitalisation Plan* to determine target profits and returns;
- information from investigation 240 to determine market conditions within the injury assessment period;
- information from investigation 300 on steel reinforcing bar to compare market behaviour and pricing processes;

- information from Platts to determine global market trends of steel reinforcing bar and wire rod; and
- data from the ABF import data base to determine exporters, importers, import volumes, export prices and terms of export.

In its application to the ADRP, Shagang also claimed that the Commission erred in its:

- price depression finding; and
- price suppression finding.

4.6.2.2 Price Depression

Shagang claimed that the Commission's analysis did not start from the beginning of the injury assessment period. However, the graph in Figure 4 in REP 301 starts at the July – September 2011 quarter which is designated as Q1 2012 which is the first quarter of the 2012 financial year. Therefore, Shagang's claim that the analysis did not start from the beginning of the injury assessment period is not correct.

Shagang claimed that the Commission's analysis of price depression should have started from the beginning of 2011 on an annual basis to remove any bias in the data due to short-term fluctuations and possible seasonality. The injury assessment period for this investigation is from July 2011 and information from this period has been verified by the Commission. The Commission does not consider it necessary to analyse injury factors prior to July 2011.

Chart 7 indicates that OneSteel's RIC prices on an annual weighted average basis have declined since financial year 2012.

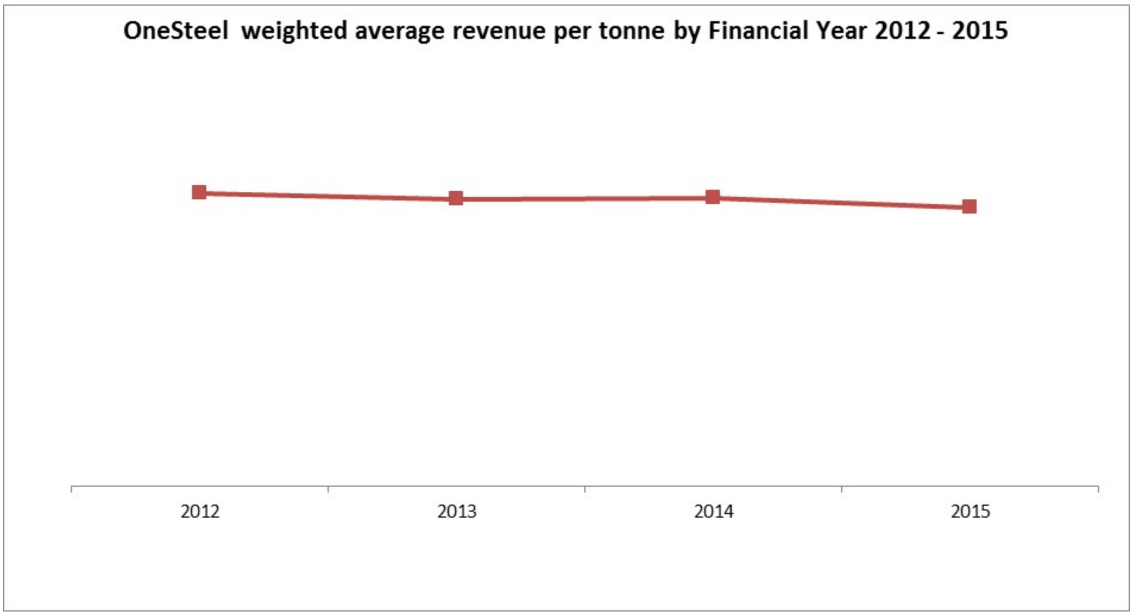

Chart 7: OneSteel RIC prices by financial year

Chart 8 indicates OneSteel's RIC prices on a quarterly basis since the July – September 2011 quarter (the start of financial year 2012). Chart 12 also indicates that OneSteel's RIC prices have declined despite short-term fluctuations.

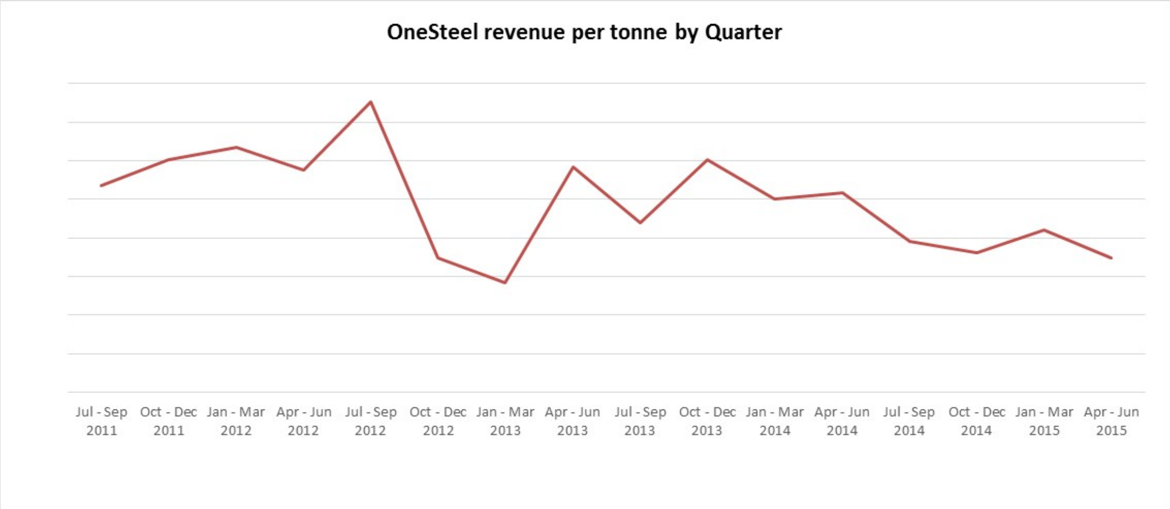

Chart 8: OneSteel RIC prices by quarter

The Commission acknowledges that OneSteel's RIC prices have been in decline over the injury analysis period as a whole. Contrary to the expectation expressed by Shagang in its application, the price fell in quarter 4 of the 2015 financial year (April – June 2015) and over the 2015 financial year as a whole. This is consistent with Commission's statement in REP 301 that [t]he *most recent price fall trend aligns with the commencement of Chinese imports from Q4 2014 onwards.* Further, the decline in RIC prices over the injury analysis period as a whole does not prevent a finding that exports of RIC from China at dumped prices resulted in price undercutting which, in turn led to price depression.

The data that forms the basis of Figure 4 in REP 301 and Charts 7 and 8 in this report is at **Confidential Appendix 15 – Graph Data.**

Shagang claimed that the decrease in OneSteel's RIC prices is related to global RIC price trends and cannot be associated with dumped imports from China. The Commission considers that Shagang's claim neglects the effects of the fall in the value of the Australian dollar during the investigation period. In section 8.5 of REP 301, the effect of the fall in the value of the Australian dollar on the domestic prices of RIC was analysed. The Commission found that the Australian dollar depreciated approximately 17 per cent against the US dollar during the investigation period. In REP 301, the Commission stated that the depreciation of the Australian dollar is likely to have resulted in upward pressure on the price of imported RIC and to have caused prices of RIC in the Australian market to increase and thereby reduce any potential adverse impact of competition from imported RIC.

To further analyse this issue, the Commission compared the decline of RIC prices with a similar product using the same type of resources and manufactured in the same mills: steel reinforcing bar (rebar). Chart 9 and Chart 10 indicate the trends and differences between OneSteel's RIC and rebar prices over the injury assessment period.

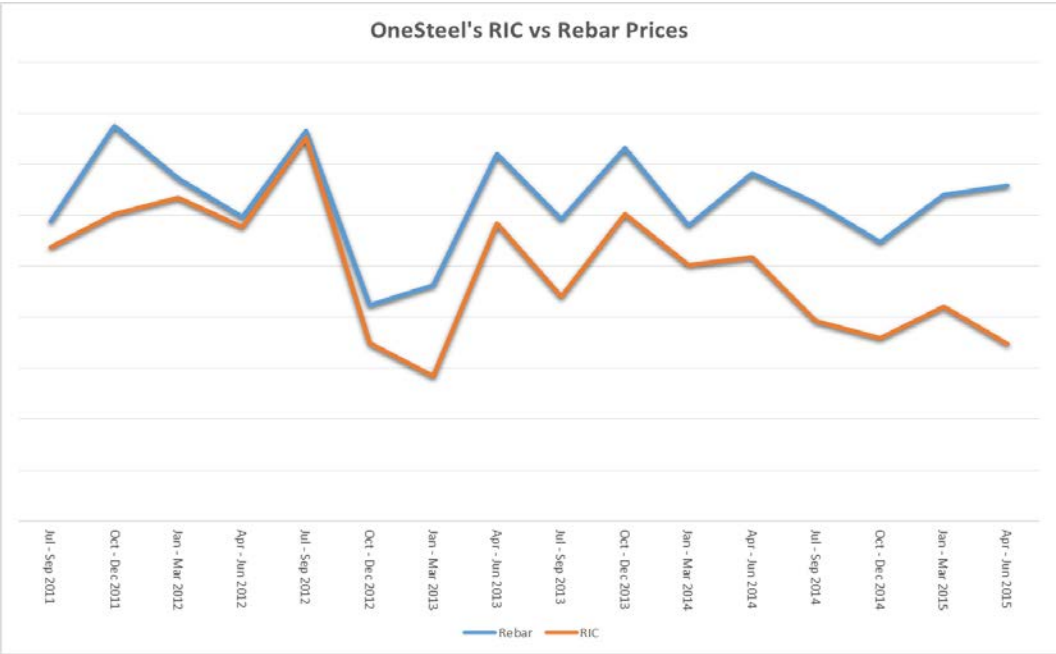

Chart 9 OneSteel's RIC prices cf rebar prices

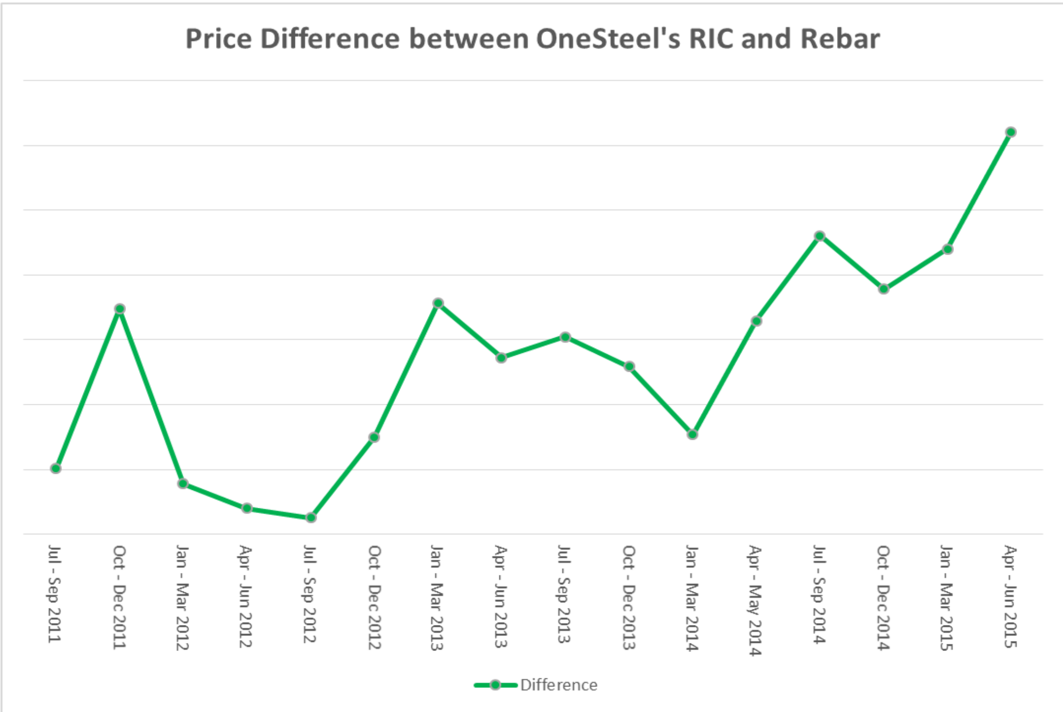

Chart 10 OneSteel RIC and rebar price differential

The Commission notes that both RIC and rebar were subject to anti-dumping investigations before the investigation period of Investigation 301. Similarly, there was an anti-dumping investigation into rebar exported from China (Investigation 300) [10] concurrent to Investigation 301 and the investigation period for that investigation overlapped with the investigation period of Investigation 301.

[10] Investigation No. 300: Steel reinforcing bar imported from China.

The Commission has found that both RIC and rebar are commodity products and follow very similar price patterns in global markets. Chart 11 provides a comparison of wire rod and rebar export prices from China between 1 July 2011 and 30 June 2015. Wire rod is essentially the same product as RIC and is suitable for the purposes of this comparison. Chart 11 indicates that wire rod prices generally follow very similar patterns to rebar prices.

Chart 11 Chinese rod prices cf rebar prices – Source: www.steelbb.com

Considering that both rebar and RIC are manufactured in the same OneSteel facilities and are produced from very similar raw materials, it is reasonable to expect that OneSteel's RIC and rebar prices would follow similar patterns and maintain a consistent price difference. The Commission notes that the dumping margins for RIC imported from China range between 39.3 per cent and 43.3 per cent for cooperating exporters while the dumping margins for rebar imported from China as calculated in REP 300 range between 11.7 per cent and 15.3 per cent for cooperating exporters.[11] The Commission considers that the higher dumping margins found for RIC indicates that OneSteel's domestic RIC prices were under greater downwards pressure from dumped imports than its domestic rebar prices. The increasing discrepancy between OneSteel's RIC and rebar prices as shown in Chart 9 and Chart 10 indicates that a greater dumping margin equates to a greater impact on OneSteel's price. This indicates that dumping affects the prices of commodity products such as RIC and supports the findings in REP 301 that OneSteel's RIC prices had been depressed due to RIC exported to Australia from China at dumped prices.

Shagang indicated in its application that international RIC prices are generally declining and that the Commission is inconsistent in finding that the Australian market would have experienced opposite trends.

[11] REP 300 is available www.adcommission.gov.au.

The Commission considers that despite prices falling globally, Australian prices have fallen further than they would have otherwise but for RIC exported to Australia from China at dumped prices.

In Australia, the prices of RIC are set in negotiations between suppliers and their customers. The Commission has found that the dumped goods were undercutting the entire market for RIC in Australia during the investigation period, and that the lowest price point was used by OneSteel's customers as a leverage point when negotiating their domestic purchase prices. If the goods from China were not dumped, the lowest price which OneSteel's customers would have been able to leverage would have been higher, allowing OneSteel to negotiate a higher price and generate an increased return. The levels of dumping indicate that, if Chinese RIC was not dumped, this increase in price would have been significant and would have not only had a direct impact, by moving the lowest international price to a higher point, but also would likely have had a flow-on impact of taking pressure off importers of RIC from other countries to reduce their prices.

The Commission affirms its finding on price depression in REP 301.

4.6.2.3 Price Suppression

The Commission considered Shagang's claims in relation to the re-examination of the price suppression analysis in REP 301. Chart 12 depicts OneSteel's unit revenue from RIC sales in comparison to its RIC CTMS figures by quarter in the investigation period. Although OneSteel achieved profitability in the last quarter of the investigation period, over the investigation period as a whole it was not profitable.

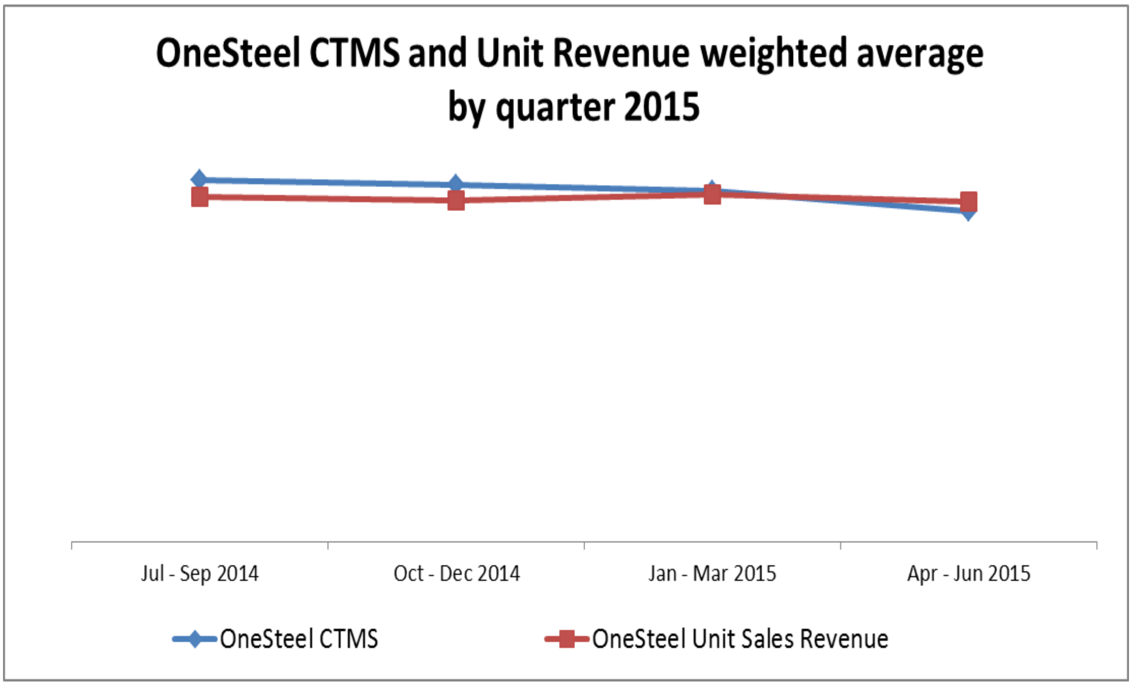

Chart 12 OneSteel CTMS vs Unit Sales Revenue quarterly over the investigation period

The Commission acknowledges the statement made by Shagang in its application that OneSteel had experienced price suppression prior to the investigation period. However, the Commission considers that OneSteel's lack of profitability over the injury analysis period as a whole does not prevent a finding that exports of RIC to Australia from China at dumped prices resulted in price undercutting which, in turn, led to price suppression.

In REP 301, the Commission noted that OneSteel's margin for RIC improved in the final quarter of 2014/15. OneSteel had indicated to the Commission that the improvement was due to:

- decreases in its costs as a result of falling input material prices, mainly iron ore and scrap steel, and cost cutting and efficiency programs; and
- reduction in import volumes of RIC from countries nominated in Investigation 240.

The Commission had verified OneSteel's cost to make and sell RIC and has found that OneSteel has achieved decreases in costs. The Commission had also examined imports of RIC using the ABF import database and has found that there has been a significant reduction in imports of RIC from countries nominated in Investigation 240. The data from the ABF database is at **Confidential Appendix 12 - ABF Import Statistics**.

The Commission's finding that, but for dumping, OneSteel would have achieved higher prices further supports the finding related to price suppression in REP 301. That is, OneSteel would have achieved better profitability, and less price suppresson, but for RIC exported to Australia from China at dumped prices.

The Commission is of the view that the *but for* methodology was applied appropriately on the basis of objective evidence, and not on mere assertion, and is sufficiently compelling to affirm the finding that the Australian industry has suffered material injury that was caused by RIC exported to Australia from China at dumped prices.

4.6.3 Materiality of injury

The ADRP requested the Commissioner to reinvestigate the finding of *materiality of injury*, particularly in the light of its reliance on *but for* methodology. The ADRP directed the Commissioner to refer to Shagang's application for review for further details.

4.6.4 The Commission's reinvestigation

In its application to the ADRP, Shagang questioned the reliability of the Commission's assessment of the materiality of injury attributable to RIC exported to Australia from China and stated that the Commission was required to hypothesise on the extent which prices would have increased in the absence of imports of RIC from China.

The *but for* analysis has indicated that but for dumping, OneSteel would have achieved higher prices and profitability, and that this had a negative impact on other factors including employment levels and reduced value of assets employed in the production of RIC. The Commission considers that these injury factors, when considered together, are material and greater than that likely to occur in the normal ebb and flow of business. As required by the *Ministerial Direction on Material Injury 2012*, there is no threshold capable of general application. The Commission considers that the injury experienced by OneSteel is not immaterial, insubstantial or insignificant.

The Commission does not consider the injury to be 'hypothetical' as Shagang claims. The extent of the price undercutting was analysed in sections 7.5 and 7.6 in REP 301. Further analysis conducted in this reinvestigation confirms that the levels of price undercutting, and the frequency in which it occurred, led to injury in the forms of price depression and price suppression, as well as to less than achievable profits and profitability and, as such, caused injury that is material. The Commission considers that having conducted the *but for* analysis, it was not necessary for the Commission to hypothesise on the precise amount of price increase that may occur in the absence of imports of RIC from China at dumped prices.

In its application to the ADRP, Shagang also stated that it is insufficient for the Commission to simply assume that sales of RIC exported to Australia from China would have been entirely replaced by OneSteel and that other import sources would not have replaced a major portion.

In REP 301, the Commission did not make such an assumption. The Commission found in REP 301 that RIC from China captured import share from other importers. This finding does not exclude the possibility that other import sources would not have replaced a major portion of RIC sales in Australia. Nor does it exclude the possibility that OneSteel would be able to recover market share, increase sales and achieve higher prices in the absence of dumped goods which would alleviate injury.

The Commission's reinvestigation affirms that the Australian industry's prices were undercut by sales of RIC exported from China at dumped prices. In REP 301, it was indicated that the Commission analysed information collected from the Australian industry and importers. It was found that the Australian RIC market shows significant price sensitivity and that price is the major criterion in customers' purchasing decisions. The Commission considers that in such conditions of competition, price undercutting by any party will create a need for other parties to lower prices or risk losing sales volume. This is turn will have impacts on OneSteel's profitability and profits.

Undercutting in the Australian RIC market resulted in the Australian industry suffering injury in the forms of price depression and price suppression as well as less than achievable profits and profitability. As discussed in its analysis on causation in REP 301 and in this reinvestigation, OneSteel would have performed better but for RIC exported from China at dumped prices and, as such, this injury is attributable to the dumping. It was also indicated in REP 310 that in the investigation period, if the value of the dumping margin was added to the prices of imported RIC, no undercutting of OneSteel's prices would have occurred

The Commission considers that it is reasonable, unless there is any compelling evidence to consider otherwise, to assume that any business aims to achieve the highest rates of profitability and profit that it can. The Commission considers that despite some improvement which is attributable to cost improvement initiatives that OneSteel implemented over the injury analysis period, it is reasonable for OneSteel to claim that without those initiatives, profits and profitability would have been significantly worse. Nevertheless, OneSteel experienced price depression and price suppression as well as less than achievable profits and profitability.

OneSteel has indicated to the Commission that it was not meeting the target benchmark return within the Arrium group due to the price and volume injury effects. At the Australian industry visit, the Commission verified that OneSteel made a [redacted] per cent loss from its RIC sales during the investigation period which is July 2014 to June 2015. In its *2015*

Annual Report[12], Arrium has stated that the pre-tax discount rate[13], which can be interpreted as its target return, for its steel division was 12.1 per cent.

In REP 301, it was indicated that in the injury period, the steel division of OneSteel has not reported a positive sales margin or positive earnings before interest and tax. Price depression and suppression have directly impacted on net revenue and total profit. The impact of price effects has directly led to continued reduction in profits for the division. It was also stated that when considering profitability restricted to the goods under consideration, there are significant aggregated losses. Despite the recent improvement in profitability, the losses are compounding, and over the financial year a net loss was found for RIC. In the final quarter of financial year 2015, there was a slight improvement in performance for RIC where costs were covered. However, during that period, the profit generated was not sufficient to be sustainable.[14]

The Commission acknowledges that sales of RIC exported from China represent a relatively small share of the market. However, this is due to the low base from which the substantial rate of growth of sales of RIC exported from China commenced. Based on ABF import statistics (as shown in Confidential Appendix 12 – ABF Import Statistics), in 2013, RIC imports from China constituted only 0.16 per cent of the total import volume of RIC into Australia. In 2014, this figure increased to 5.53 per cent and in the first half of 2015, RIC imported from China accounted for 35.91 per cent of all RIC imports.

The Commission considers that the market characteristic of price sensitivity, combined with the imposition of dumping duties on certain exporters from Indonesia and Taiwan following Investigation 240, has provided the conditions for sales by exporters of RIC from China at dumped prices to grow at such a rate.

The Commission considers that over the investigation period, the Australian industry has not been able to capture the fall in sales of RIC from Indonesia and Taiwan and increase its sales volumes accordingly. The Commission considers that this is because the sales it may have hoped to recover from these countries after the imposition of measures were captured by sales of RIC exported from China at dumped prices. Accordingly, the failure of the Australian industry to achieve potential growth in market share and profit for RIC supports the finding that the Australian industry has suffered material injury caused by RIC exported to Australia from China at dumped prices.

Shagang stated in its application that consideration should be given to why OneSteel has been unprofitable since 2010.

The Commission notes that Investigations 240, 264, 300 and 301 have indicated that OneSteel has been competing with dumped imports of RIC and rebar since 2013. However, in this investigation, the Commission is required to determine whether dumping of RIC exported from China caused material injury during the investigation period. The Commission does not consider that it is necessary to consider the reasons underlying OneSteel's performance back to 2010 in order to be satisfied of this. The Commission

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[12] http://www.arrium.com/~/media/Arrium%20Mining%20and%20Materials/Files/ASX%20Announcements/FY2015/2015%20Annual%20Report.pdf

[13] Arrium explains that the discount rates reflect management's estimate of the time value of money and the risks specific to each CGU/group of CGUs that are not already reflected in the cash flows. In determining appropriate discount rates for each unit, regard has been given to a weighted average cost of capital of the entity as a whole and adjusted for country and business risk specific to the CGU.

[14] Sustainable profit levels for the Australian industry have been considered in line with recent borrowing activity which Onesteel's head company, Arrium Ltd has entered into. OneSteel should target the interest rate on the most recent debt as the minimum rate of return required. This rate has been calculated at 8.2245% based on the lowest rate disclosed (USD LIBOR + 7%, or 8.2245% at 17 March 2016), page 10 of the *Arrium Recapitalisation Plan* release 22 February 2016.

notes that OneSteel is a commercial business and a public company that aims to maximise profits from its commercial operations. The Commission considers that its analysis of dumping and whether that caused material injury has been conducted thoroughly and appropriately.

The Commission considers that injury factors of price depression and price suppression, as well as less than achievable profits and profitability, experienced by OneSteel are of such a number and degree that when considered together are material and greater than that likely to occur in the normal ebb and flow of business. The Commission considers that the injury experienced by OneSteel that was caused by RIC exported from China at dumped prices is not immaterial, insubstantial or insignificant.

The Commission does not consider that this injury can correctly be described as *hypothetical* as claimed by Shagang.

4.6.5 Vertically integrated nature of Arrium Ltd

The ADRP requested the Commissioner to reinvestigate the causation finding in the light of various statements in REP 301 relating to the vertically integrated nature of Arrium Ltd, and of Vicmesh's submissions on what it characterises as a failure *to differentiate trade exposed versus non-exposed sectors.* The ADRP noted that, in particular:

i. REP 301 notes that the majority of OneSteel's sales of RIC were to related parties over the investigation period, but states that OneSteel advised that sales to its related parties remain subject to market forces regarding price;

ii. REP 301 refers to OneSteel's internal transfer pricing process and *found that the cost methodology utilised by OneSteel reflected Australian accounting standards whereby transfer prices internally are recognised at the lower of cost or market price.*

In reinvestigating this issue, the ADRP requested the Commission to explain how the Commission *tested* the assertion and confirmed that sales to both related and unrelated parties are based on market pricing, and to reconcile this with OneSteel's transfer pricing policy, referred to in the second point above. The ADRP further requested that the Commission re-examine the implications of this factor on causation, bearing in mind the injury findings relating to price suppression and profitability.

4.6.6 The Commission's reinvestigation

The Commissioner reinvestigated the causation finding in the light of various statements in REP 301 relating to the vertical integrated nature of Arrium Ltd, and of Vicmesh's submissions on what it characterises as a failure *to differentiate trade exposed versus non-exposed sectors.*

At the Australian industry verification visit, the verification team examined sales from OneSteel to its related customers. The verification team found that OneSteel's sales of RIC to related entities accounted for [redacted] [percentage] of all sales during the investigation period. In OneSteel's financial accounts, these sales are listed as 'intercompany' sales. At the verification visit, OneSteel explained that these are not at a transfer price but, rather, are at market rates that are at arm's length. OneSteel further explained that [redacted] [*price detail*] [redacted]

[redacted]. *[commercial detail]*

In order to test the assertion that sales to both related and unrelated parties are based on market pricing, the Commission verified the information provided by OneSteel in relation to its pricing details. This verification is at **Confidential Appendix 16 – Related party transactions**. Based on the Commission's analysis of the sales data, the Commission is satisfied that prices to OneSteel's internal customers are at arm's length and has not found evidence that would indicate otherwise.[15] An examination of OneSteel's sales prices to its related entities shows that OneSteel complied with Australian accounting standards in relation to pricing its sales to related entities. The data in the 'Analyses' tab of **Confidential Appendix 16 – Related Party Transactions** indicates that OneSteel's prices to its related and unrelated customers demonstrate a very similar pattern. This indicates that the pricing decisions are not affected by the commercial relationship between OneSteel and its related customers, but are affected by other market forces, mainly the prevailing import price offers of RIC. Therefore, the Commission is satisfied that selling prices of RIC to both related and unrelated parties are subject to market forces based on competitive prices and can be relied upon in the assessment of the economic condition of the Australian industry.

The Commission has concluded that the analysis relating to volume, price, profit and profitability should be completed at the aggregated level in the Australian market for RIC. In certain circumstances, the Commission will consider a segregated market analysis where injury may be examined in a market exposed sector and related back to the industry as a whole. However, in this case the Commission does not consider that a segregated market analysis is required for the purpose of injury assessment because, as discussed above, OneSteel's selling prices to related and unrelated parties are subject to market forces.

Vicmesh stated in its application that OneSteel is inflicting injury on itself due to utilising a pricing formula that automatically builds on import prices together with various premiums. Vicmesh is referring to OneSteel's import parity pricing. The Commission has found that OneSteel responds to price undercutting by lowering its prices in order to maintain sales volumes and production levels and remain in business. As the prices are lower than OneSteel's CTMS over most of the investigation period, OneSteel is being injured. The price premiums OneSteel is trying to maintain is a reflection of the extra service OneSteel, as a local supplier, offers to its customers such as stock holding and faster delivery compared to the three month delivery timeframe for RIC from overseas.

Vicmesh stated in its application that OneSteel is willing to make a loss on RIC as long as it makes profit in its mesh subsidiaries.

The Commission considers that it is reasonable to assume that any business, including the applicant, aims to maximise profit unless there is compelling evidence to indicate otherwise. The Commission has seen no evidence suggesting that OneSteel is willing to make a loss to support its downstream businesses. The Commission has verified that OneSteel's prices to related entities correlate with OneSteel's prices to independent customers. The Commission found that RIC prices within the investigation period are based on what the market will pay. As indicated in the industry verification report, the

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[15] In terms of subsection 269TAA(1)

Commission tested, and was satisfied, that the all prices recorded in the information provided were effectively trade exposed as the external prices from unrelated customers were referenced in the calculation of all its prices. The Commission found that OneSteel, despite being part of the overall Arrium business, remained responsible as an individual corporate entity by ensuring that profits are maximised.

Further, the Commission has found that the ‘related party’ sales prices were set with reference to sales to non-related parties which compete with OneSteel’s related parties. The Commission considers that the suggestion that prices are set to ensure profit for its mesh making subsidiaries is not supported by the available evidence.

5 CONCLUSION

Based on the following evidence:

- verified sales data from OneSteel to determine sales levels and prices it achieved;
- evidence on price offers in the Australian RIC market to determine prices offered by importers of RIC from China and from other countries;
- verified information from OneSteel, importers and exporters of RIC to determine competitive market conditions and practices, dumping margins and price setting processes;
- verified production and cost data from OneSteel to determine production levels and profitability;
- verified data on revenue and costs from OneSteel to determine profits it achieved;
- OneSteel's Annual Reports to determine target profits and returns;
- *Arrium Recapitalisation Plan* to determine target profits and returns;
- information from Investigation 240 to determine market conditions within the injury assessment period;
- information from Investigation 300 on steel reinforcing bar to compare market behaviour and pricing processes;
- information from Platts to determine global market trends of steel reinforcing bar and wire rod; and
- data from the ABF import data base to determine exporters, importers, import volumes, export prices and terms of export

and as a result of the reinvestigation of Findings 1 – 5, the Commission recalculated the dumping margins and made new findings as indicated in Table 7.

Company	REP 301 Dumping Margin	Revised Dumping Margin
Hunan Valin	44.1%	43.3%
Shagang	37.4%	39.3%

Table 7 Previous and revised dumping margins

The Commissioner affirms his finding in REP 301 that the Australian industry has experienced material injury that was caused by dumping.

The Commissioner's findings as a result of the reinvestigation are:

- In relation to Finding 1, this reinvestigation found that Hunan Valin's conversion costs did not include an amount for yield loss, therefore the Commission's decision in REP 301 to use the billet benchmark to substitute Hunan Valin's billet cost was the correct decision;
- In relation to Finding 2, this reinvestigation confirmed that there was a mathematical error in calculation of Hunan Valin's profit rate in REP 301. Hunan Valin's profit rate has been recalculated and the consequential amendments to Hunan Valin's normal value and dumping margin have been made;

- In relation to Finding 3, as a result of this reinvestigation, the Commission affirms that the Latin American steel billet export prices constitute the best available information for establishing competitive market costs for steel billets after adjustments for exporters' profits and inland transportation costs;
- In relation to Finding 4, this reinvestigation found that the profit rate that was deducted from the benchmark should be the average profit realised by Latin American steel manufacturers, which is zero per cent;
- In relation to Finding 5, this reinvestigation found that the steel benchmark should be adjusted for the inland transport component in the FOB level benchmark price, which is 1.08 per cent of the export price;
- In relation to Finding 6, this reinvestigation found that:
    - RIC exported to Australia from China by Hunan Valin and Shagang was at dumped prices;
    - the dumping margins for Hunan Valin and Shagang are not negligible;
    - RIC exported to Australia from China at dumped prices allowed importers to undercut the Australian industry's prices;
    - price undercutting resulted in the Australian industry being required to reduce its prices to remain competitive and to maintain production volumes;
    - the Australian industry has suffered injury in the forms of price depression and price suppression, as well as less than achievable profits and profitability;
    - the consequential effects of RIC exported to Australia from China at dumped prices which undercut the Australian industry's prices caused the Australian industry to suffer injury in the forms of price depression and price suppression, less than achievable profits and profitability reduced employment and reduced value of assets employed in the production of RIC;
    - the injury factors experienced by the Australian industry are of such a number and degree that the injury suffered by the Australian industry that was caused by RIC exported from China at dumped prices is material; and
    - material injury experienced by OneSteel was caused by exports of RIC from China at dumped prices and not by other factors.

6 APPENDICES AND ATTACHMENTS

Confidential Appendix 1 – Hunan Valin conversion cost	Hunan Valin's conversion cost calculations
Confidential Appendix 2 – Hunan Revised Profit	Hunan Valin's revised profit rate calculations
Confidential Appendix 3 – Latin American profitability	Average profitability of selected Latin American steel producers with respect to their annual reports
Confidential Appendix 4 – Hunan revised export price	Hunan Valin's export prices
Confidential Appendix 5 – Hunan revised NV construction	Hunan Valin's revised constructed normal value calculations
Confidential Appendix 6 – Hunan NV summary	Hunan Valin's normal value summary table
Confidential Appendix 7 – Hunan Revised Dumping Margin	Hunan Valin's revised dumping margin calculations
Confidential Appendix 8 – Shagang export price	Shagang's export prices
Confidential Appendix 9_10 - Shagang NV and Adjustments	Shagang's normal value calculations and adjustments
Confidential Appendix 11 – Shagang Revised DM	Shagang's revised dumping margin calculations
Confidential Appendix 12 - ABF Import Statistics	ABF Import Statistics for RIC imports
Confidential Appendix 13 – Price undercutting analysis	Price undercutting analysis based on ABF import statistics and verified post importation costs
Confidential Appendix 14 – Further Price Undercutting Analysis	Price undercutting analysis based on actual verified imported RIC price offers
Confidential Appendix 15 – Graph Data	The data that forms the basis of Figure 4 in REP 301
Confidential Appendix 16 – Related party transactions	Analysis of OneSteel's related part sales transactions
Confidential Attachment 1	Price undercutting charts
Attachment 2	List of measures in place
Attachment 3	2014 and 2015 earnings releases and annual reports of Latin American steel producers