Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

Customs Act 1901 – Part XVB

ANTI-DUMPING NOTICE NO. 2018/99

RAILWAY WHEELS

Exported from the People's Republic of China and France

Preliminary Affirmative Determination

and imposition of securities

Public Notice under section 269TD of the Customs Act 1901[1]

1. Introduction

The purpose of this public notice is to set out the reasons why I, Dale Seymour, Commissioner of the Anti-Dumping Commission (the Commissioner) have, on 18 June 2018,[2] made a preliminary affirmative determination (PAD) under subsection 269TD(1) of the *Customs Act 1901*[3] (the Act), being a date not earlier than 60 days after the initiation of the investigation into the alleged dumping of certain railway wheels (the goods) exported to Australia from the People's Republic of China (China) and France. The investigation is the result of an application lodged by the sole Australian manufacturer of like goods, Commonwealth Steel Company Pty Ltd (Comsteel).

In summary, my preliminary determination is that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from China and France, and that it is necessary to require and take securities in relation to exports of the goods from those countries to prevent material injury to the Australian industry occurring while the investigation continues.

The Commission is also conducting an investigation into the allegation included in Comsteel's application that it has suffered material injury caused by countervailable subsidies being received in respect of railway wheels exported to Australia from China.

[1] This is a public notice under subsection 269TD(4)(a) of the Customs Act 1901 of the Commissioner's preliminary affirmative determination and a public notice under subsection 269TD(5) of the Customs Act 1901 of the Commonwealth's decision to require and take securities.
[2] Day 60 of this investigation was 17 June 2018.
[3] All legislative references are to the *Customs Act 1901,* unless otherwise stated.

The Commission will continue to investigate this claim but has not, at this time, made a preliminary affirmative determination in respect of whether there are sufficient grounds for the publication of a countervailing duty notice.

This public notice and the preliminary findings contained within reflect the current status of the investigation. My findings may change as a result of further information, submissions, analysis or verification.

2. Reasons for making a PAD and for taking securities

The Anti-Dumping Commission's (the Commission) preliminary assessment has shown that:

- exports of railway wheels from China and France during the period 1 January to 31 December 2017 (the investigation period) were at dumped prices and the dumping margins were not negligible; and
- the volumes of dumped goods from China and France were not negligible (i.e. individually above three per cent of the total Australian import volume).

The Commission's injury analysis to date indicates that injury is being caused by dumped imports from China and France. This is based on the level of the dumping margins the Commission has preliminarily calculated for the exporters of the goods from China and France, an analysis of the economic condition of the Australian industry and consideration of the causes of injury to the Australian industry.

Having regard to the application, submissions received to date concerning publication of the dumping duty notice and other information I considered relevant,[4] and pursuant to subsection 269TD(1)(a), I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from China and France. As a result, I have made a PAD to that effect, pursuant to section 269TD.

Under subsection 269TD(4)(b), I am satisfied that it is necessary to require and take securities in relation to exports of the goods to Australia from China and France to prevent material injury to the Australian industry occurring while the investigation continues.

The Commonwealth will require and take securities under section 42 in respect of interim dumping duties that may become payable in respect of the railway wheels exported to Australia from China and France and entered for home consumption in Australia on or after **19 June 2018**.

The security has been determined using the combination fixed and variable method (see section 12.1 of this report) and the fixed component of duty will be imposed on goods exported to Australia from China and France at the rates specified in the table of preliminary dumping margin assessments at Section 7.6 (Table 2 refers).

3. Background

On 18 April 2018, I initiated an investigation into the alleged dumping of railway wheels exported from China and France and the alleged subsidisation of the goods exported from China, following an application by Comsteel, a manufacturer of like goods in Australia.

[4] Refer to Section 3 of this report.

Further details in relation to the initiation of this investigation can be found in Anti-Dumping Notice (ADN) No. 2018/59 on the Commission's website.

Under subsection 269TD(1), I may make a PAD at any time, not earlier than 60 days after I initiate an investigation for the publication of a dumping notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the initiation of such an investigation I must either make a PAD or publish a Status Report outlining the reasons why I have not made a PAD. Day 60 of this investigation was 17 June 2018. I have decided to publish this PAD on 18 June 2018, the first working day after day 60 of the investigation.

4. Evidence relied upon

To date in the investigation, the Commission has undertaken a verification visit to Comsteel and the four mining companies that currently form the market for the goods in Australia. The Commission is in the process of finalising reports of these visits.

In deciding to make a PAD in relation to this investigation, I have, in accordance with subsection 269TD(2), had regard to:

- Comsteel' s application;
- information obtained during the course of the verification visit to Comsteel;
- importer questionnaire responses received from cooperating importers;
- exporter questionnaire responses received from cooperating exporters;
- information obtained during visits to the importers/end users of railway wheels in Australia;
- submissions received from interested parties; and
- Australian Border Force (ABF) import data.

5. Australian industry producing 'like goods'

5.1 The goods the subject of the investigation

The goods the subject of the application (the goods) are:

> *Forged and rolled steel, high hardness, nominal 38-inch (or 966 mm to 970 mm) diameter, railway wheels, whether or not including alloys.*
>
> *Axles and other components are excluded from the goods coverage.*

In its application, Comsteel provided the following further details in relation to the goods:

> The railway wheels are manufactured in accordance with the relevant user defined specifications and drawings, and are used on rail carriages used to transport iron ore. The users of these type of railway wheels are:
>
> - BHP Billiton Ltd (BHP);
> - Rio Tinto Ltd (Rio Tinto);
> - Fortescue Mining Group (FMG); and
> - Roy Hill Holdings Pty Ltd (Roy Hill).

The railway wheels used in all user applications have the following typical characteristics:

- 38 inch or 966 mm to 970 mm diameter and of similar overall dimensional tolerances and shape;
- manufactured from a high carbon steel with the addition of micro alloying elements to achieve hardness and mechanical properties as defined in the user specifications;
- manufactured using a forging and rolling process in accordance with defined standards;
- suitable to operate at axle loads above 36 metric tonnes; and
- a multi-wear rim.

In a submission dated 4 June 2018, the Chinese Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) claimed that the goods under consideration were more specific than the definition set out in italics above. The CCCME claimed that the goods under consideration were necessarily defined as the railway wheels 'meeting the exacting specifications of each Australian end user'. It claimed that framing the goods under consideration according to a broader description not incorporating the specifications rendered the application for anti-dumping measures and the Commission's consideration report defective. It claimed that the Commission should have rejected the application on this basis.

The Commission will continue to consider this submission as the investigation progresses. However, the Commission's view at this time is that it does not agree with the CCCME's position. The Commission's preliminary view is that the description of the goods set out in italics above is a reasonable and accurate description of the goods the subject of the application.

5.2 Australian industry

An application for a dumping duty notice can only be made if there exists an Australian industry producing 'like goods' to the goods under consideration. Like goods are defined under subsection 269T(1). Subsections 269T(2), 269T(3) and269T(4) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.

Since the initiation of the investigation, the Commission has undertaken a verification visit to Comsteel to verify information provided in its application. During the course of the verification visit, the Commission undertook an inspection of Comsteel's manufacturing facility and is satisfied that at least one substantial process of manufacture of railway wheels was carried out in Australia.

The Commission has also preliminarily assessed that the locally produced goods closely resemble the goods under consideration and are like goods given that:

- the primary physical characteristics of the imported and locally produced goods are similar – being of similar shape and dimension, and being made from similar alloy steel;
- the imported and locally produced goods are commercially alike as they are sold to common customers;
- the imported and locally produced goods are functionally alike as they have the same or similar end-use – to be affixed to railway cars to transport iron ore; and

- the Commission understands that the imported and locally produced goods are manufactured in a similar manner – through the forming, rolling and treating of steel sections cut from an ingot or billet.

The Australian industry produces other types of steel wheels for railway applications. These include wheels for passenger and general freight carriages and locomotives. The Commission's preliminary view is that these other types of wheels are not like goods to the goods under consideration as:

- the primary physical characteristics of the imported and other wheels produced by Comsteel are different - being of different design and dimension;
- the imported and other wheels produced by Comsteel are not commercially alike as they are sold to different customers in different sectors of the rail market; and
- the imported and locally produced goods are not functionally alike as they have different end-uses.

Although the other steel wheels produced by Comsteel are manufactured using a similar production process, on balance the Commission considers that when assessed against its like goods framework[5], such wheels are not like goods to the goods under consideration in this investigation.

5.3 Australian industry producing 'like goods' – preliminary assessment

As a result of the information verified during the verification visit to Comsteel, the Commission is satisfied that there is an Australian industry producing like goods to the goods under consideration.

6. The Australian market

The Australian market for iron ore carriage railway wheels is supplied by Comsteel and imports from China and France.

The goods are used on iron ore carriages which run on proprietary railways owned by iron ore miners in the Pilbara region of Western Australia. During the investigation period, the proprietors of the railways were BHP, Rio Tinto, FMG and Roy Hill.

Specifications for railway wheels differ slightly between the Australian customers to reflect differences in railway track designs and load requirements of the ore carriages. There are no market substitutes for railway wheels in Australia.

Demand for railway wheels is driven by the commissioning of new ore carriages and the replacement of wheels on existing carriages. The typical lifespan of a railway wheel is between 8 and 12 years.

Purchases have traditionally been made by end users from pre-qualified suppliers through contract or tender arrangements. Supply arrangements typically establish pricing and supply quantities for a fixed period and/or quantity against which periodic orders are made. Delivery terms are typically to specified storage and workshop facilities either in Perth or the Pilbara.

There was minimal demand for railway wheels in Australia in 2014 and 2015 due to a decline in iron ore prices, which placed cost pressures on iron ore producers. Demand increased significantly in 2016 and again in 2017 as iron ore prices rose and the iron ore

[5] See Chapter 2 of the Commission's Dumping and Subsidy Manual, available on the Commission's website

miners increased their spending on maintenance programs, including the purchase of replacement railway wheels.

7. Dumping investigation

7.1 Exporter questionnaires received

The Commission received exporter questionnaire responses from the following exporters:

Country	Exporter
China	Maanshan Iron and Steel Co Ltd (Masteel)
France	MG-Valdunes (Valdunes)

Table 1: List of exporters that provided a response to the exporter questionnaire

7.2 Particular Market Situation – China

The applicant, Comsteel, claims that the situation in the market of China is such that sales of like goods sold in the ordinary course of trade for home consumption that are arms length transactions are not suitable for use in determining a normal value under subsection 269TAC(1) of the Act.

The Commission will continue to examine these claims, taking into account information including questionnaire responses from Masteel and the Government of China. For the purposes of this PAD, the Commission has not made a preliminary finding that there is a particular market situation for railway wheels in China. The Commission notes Masteel's claim that it does not sell like goods on the domestic market and will investigate this claim as the investigation continues.

7.3 Competitive market costs

As part of its particular market situation claim, Comsteel cited previous investigations by the Commission that had found that steel raw materials of the kind used to produce railway wheels were provided to Chinese manufacturers at less than adequate remuneration or the prices of such materials had been considered by the Commission to be unsuitable for determining a competitive market price free from government influences.

The Commission has relied on the following sources of information in its preliminary assessment of whether the amounts contained in Masteel's records are competitive market costs:

- recent analysis of the Chinese steel market undertaken by other jurisdictions;[6] and
- previous Commission investigations in relation to steel products.

[6] Refer to United States Department of Commerce (US DOC), China's Status as a Non-Market Economy, 2017: https://enforcement.trade.gov/download/prc-nme-status/prc-nme-review-final-103017.pdf; European Commission (EC), Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, 2017: http://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf; Canada Border Services Agency, Statement of Reasons concerning the final determination with respect to the dumping and the subsidising Certain concrete reinforcing bar originating in or exported from the People's Republic of China, the Republic of Korea and the Republic of Turkey, 4214-42 AD/1403, 4218-39 CV/138, 23 December 2014.

At the time of initiation of the investigation, the Commission contacted the GOC and provided it with a government questionnaire in relation to the particular market situation and subsidy allegations. The Commission agreed to two extensions of time for the GOC to lodge its questionnaire response, which was provided on 11 June 2018. Due to the extensions granted, the Commission has been unable to take the GOC's exporter questionnaire into account in making this PAD, as to do so would prevent the timely consideration of the question whether or not to make this PAD.[7] The Commission will assess the information provided in relation to particular market situation and competitive market costs as the investigation continues.

At the time of publishing this PAD, I am preliminarily satisfied that the GOC's involvement in the Chinese domestic steel market has materially distorted competitive conditions in China for the steel material input to the manufacture of railway wheels.

In reaching this preliminary assessment, I have relied on previous findings of the Commission in relation to particular market situation determinations, competitive market costs and contervailable subsidy determinations for Chinese steel products as detailed below:

- Investigation (No. 384) Alloy round steel bar
- Investigation (No. 331) Rod in coils – subsidy investigation
- Investigation (No. 322) Steel reinforcing bar – subsidy investigation
- Investigation (No. 301) Rod in coils – anti-dumping investigation
- Investigation (No. 300) Steel reinforcing bar – anti-dumping investigation

These previous investigations into the steel products exported from China have found that the GOC has influenced the domestic prices of the steel products through the following means:

- controlling the roles of state invested entities;
- influencing industry planning guidelines and directives;
- providing direct and indirect financial support; and
- various taxation arrangements.

Based on the above, I have formed the preliminary view that the steel input costs incurred by Masteel in manufacturing railway wheels in China are not competitive market costs.

7.4 Dumping Margins for China

7.4.1 Masteel

<u>Export price</u>

For certain exports to Australia by Masteel during the investigation period, the Commission preliminarily considers that Masteel was both the exporter and importer in relation to the transactions. For these sales to Australia, the goods were exported to Australia by the importer and therefore the export price cannot be established under subsection 269TAB(1)(a) or subsection 269TAB(1)(b) of the Act. The Commission has, having regard to all the circumstances of the exportation, preliminarily determined export prices for these exports under subsection 269TAB(1)(c), using the price paid or payable by the customer in

[7] Refer to subsection 269TD(3).

Australia, less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

For other exports to Australia by Masteel during the investigation period, the Commission's preliminary view is that:

- the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter (whether before or after exportation); and
- the purchase of the goods by the importer was an arms length transaction.

The Commission has preliminarily established export prices for these transactions under subsection 269TAB(1)(a) of the Act, using the the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

Normal Value

Subject to further investigations, the Commission has preliminarily accepted Masteel's submission that it did not sell like goods to the goods under consideration in China in the investigation period.

The Commission's preliminary view is that, because of the absence of sales of like goods in China that would be relevant for determining a price under subsection 269TAC(1) of the Act, the normal value for exports from China should be established for the purposes of this PAD under subsection 269TAC(2)(c) of the Act, being the sum of:

- such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export; and
- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the Minister determines would be the administrative, selling and general costs associated with the sale and the profit on that sale.

Subsection 43(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation) requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles, and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

As discussed in section 7.3 above, the Commission's preliminary view is that the costs relating to purchases of raw material for railway wheels during the review period contained in Masteel's records do not reasonably reflect competitive market costs.

The Commission has, therefore, determined that for the purposes of this PAD it is appropriate to replace Masteel's steel material input costs for billet with the costs incurred by the French railway wheel producer, Valdunes. The Commission has used these costs as the Commission's preliminary assessment is that these costs represent competitive market costs of the grade and type of steel used in the production of the goods under consideration. These are also costs that are available to the Commission at this stage of the investigation.

The Commission has considered whether it is appropriate to adjust the steel input costs of the French manufacturer to take into account the comparative differences between the positions of the producers in China and France. The Commission considers that, at this stage of the investigation, it does not have sufficient information to make such an adjustment. As the investigation continues, the Commission will give further consideration, including following its verification visits to the exporters, to whether Masteel's costs are competitive and, if it finds they are not, the appropriate amount of costs that should be included in any constructed normal value.

As the Commission's preliminary view is that Masteel does not sell like goods in China, it has not been able to work out an amount for SG&A costs under subsection 44(2) of the Regulation. The Commission has worked out an amount for SG&A under subsection 44(3)(c) of the Regulation using any other reasonable method and having regard to all relevant information. The Commission has preliminarily calculated an amount of SG&A using the amount Masteel has indicated it incurred for such expenses in relation to exports to Australia of the goods under consideration during the investigation period.

The Commission has preliminarily calculated an amount for profit under subsection 45(3)(a) of the Regulation. The Commission calculated an amount of profit by identifying the actual amounts realised by Masteel from the sale of the same general category of goods (other types of railway wheels sold by Masteel on the domestic market) in the domestic market of China.

To ensure the normal values were properly compared to export prices, in accordance with subsection 269TAC(9), it was necessary to make the following adjustments to the normal value:

- export selling expenses – upward adjustment;
- export credit – upward adjustment.

<u>Dumping Margin</u>

The preliminary dumping margin for Masteel was established in accordance with subsection 269TACB(2)(a) of the Act, by comparing quarterly weighted average export prices to corresponding quarterly weighted average normal values for the investigation period.

The preliminary dumping margin for Masteel is 17.0 percent.

7.4.2 Uncooperative and all other exporters –China

Having regard to the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (Customs Direction), in relation to this investigation, the legislated period for providing an exporter questionnaire response has expired. Therefore, under subsection 8(b) of the Customs Direction, I must determine all exporters who did not provide a response or request a longer period to provide a response within the legislated period to be uncooperative exporters pursuant to subsection 269T(1). Note that the Commission is unaware of any exporters, other than Masteel, that exported the goods to Australia from China in the investigation period.

<u>Export price</u>

After having regard to all relevant information, the export prices for any uncooperative or other exporters from China has been established in accordance with subsection 269TAB(3) of the Act, using the export price for the entire investigation period from the co-operating Chinese exporter, Masteel.

Normal Value

After having regard to all relevant information, the normal value for any uncooperative or other exporters from China has been established in accordance with subsection 269TAC(6) of the Act, using the normal value for the entire investigation period from the co-operating Chinese exporter, Masteel, excluding any downward adjustments. As there are no downward adjustments to Masteel's preliminary normal value, the normal value is the same as that calculated for Masteel.

Dumping Margin

The preliminary dumping margin for any uncooperative or other exporters from China was established in accordance with subsection 269TACB(2)(a) of the Act, by comparing the weighted average export prices established under subsection 269TAB(3) with the weighted average normal values established under subsection 269TAC(6).

The preliminary dumping margin for uncooperative and all other exporters from China is 17.0%.

7.5 Dumping Margins for France

7.5.1 Valdunes

Export price

The Commission has formed the preliminary view, in respect of Valdunes' Australian export sales during the investigation period, that:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were arms length transactions.

The Commission has preliminarily found that the goods have been purchased by the importer from the exporter, and therefore the export price has been calculated using subsection 269TAB(1)(a) of the Act using the the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

Normal Value

Subject to further investigations, the Commission has preliminarily accepted Valdunes' submission that it did not sell like goods to the goods under consideration in France in the investigation period.

The Commission's preliminary view is that, because of the absence of sales of like goods in France that would be relevant for determining a price under subsection 269TAC(1) of the Act, the normal value for exports from France should be established for the purposes of this PAD under subsection 269TAC(2)(c) of the Act, being the sum of:

- such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export; and

- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the Minister determines would be the administrative, selling and general costs associated with the sale and the profit on that sale.

The Commission has preliminarily established the cost of production or manufacture of the goods in the country of export using the information in Valdunes' exporter questionnaire response.

As the Commission's preliminary view is that Valdunes does not sell like goods in France, it has not been able to work out an amount for SG&A costs under subsection 44(2) of the Regulation. The Commission has worked out an amount for SG&A under subsection 44(3)(a) of the Regulation by identifying the actual amounts of SG&A costs incurred by Valdunes in the production and sale of the same general category of goods (other types of railway wheels sold by Valdunes on the domestic market).

The Commission has preliminarily calculated an amount for profit under subsection 45(3)(a) of the Regulation. The Commission calculated an amount of profit by identifying the actual amounts realised by Valdunes from the sale of the same general category of goods (other types of railway wheels sold by Valdunes on the domestic market) in the domestic market of France.

To ensure the normal values were properly compared to export prices, in accordance with subsection 269TAC(9), it was necessary to make the following adjustments to the normal value:

- domestic credit – downward adjustment;
- export selling expenses – upward adjustment;
- export credit – upward adjustment.

<u>Dumping Margin</u>

The preliminary dumping margin for Valdunes has been established in accordance with subsection 269TACB(2)(a) of the Act, by comparing quarterly weighted average export prices to corresponding quarterly weighted average normal values for the investigation period.

The preliminary dumping margin for Valdunes is 28.2 percent.

7.5.2 Uncooperative and all other exporters – France

Having regard to the Customs Direction, in relation to this investigation, the legislated period for providing an exporter questionnaire response has expired. Therefore, under subsection 8(b) of the Customs Direction, I must determine all exporters who did not provide a response or request a longer period to provide a response within the legislated period to be uncooperative exporters pursuant to subsection 269T(1). Note that the Commission is unaware of any exporters, other than Valdunes, that exported the goods to Australia from France in the investigation period.

<u>Export price</u>

After having regard to all relevant information, the export prices for any uncooperative or other exporters from France was established in accordance with subsection 269TAB(3) of the Act, using the weighted average export price for the entire investigation period established from the cooperating exporter from France, Valdunes.

Normal Value

After having regard to all relevant information, the normal values for any uncooperative or other exporters from France were established in accordance with subsection 269TAC(6) of the Act, using the weighted average normal value for the entire investigation period from the cooperating French exporter, Valdunes, excluding any downward adjustments.

Dumping Margin

The preliminary dumping margin for uncooperative and all other exporters from France was established in accordance with paragraph 269TACB(2)(a) of the Act, by comparing the weighted average export prices established under subsection 269TAB(3) with the weighted average normal values established under subsection 269TAC(6).

As a result, the preliminary dumping margin for uncooperative and all other exporters from France is 28.3%.

7.6 Dumping determination

Having regard to the exporter questionnaire responses received from the one identified exporter from China, Masteel and the one identified exporter from France, Valdunes, the Commission has preliminarily determined the following dumping margins in relation to railway wheels exported to Australia from China and France during the investigation period:

Country	Exporter	Export Price	Normal Value	Dumping Margin
China	Masteel	s.269TAB(1)(a) s.269TAB(1)(c)	s.269TAC(2)(c)	17.0%
China	Uncooperative and all other	s.269TAB(3)	s.269TAC(6)	17.0%
France	Valdunes	s.269TAB(1)(a)	s.269TAC(2)(c)	28.2%
France	Uncooperative and all other	s.269TAB(3)	s.269TAC(6)	28.3%

Table 2 - Preliminary Dumping Margin Summary

7.7 Conclusion– preliminary assessment

The Commission’s preliminary assessment is that railway wheels exported to Australia from China and France during the investigation period were at dumped prices, that the dumping margins were not negligible,[8] and the volume of dumped goods from each country was not negligible.[9]

8. Injury to the Australian industry

The injury analysis period is from 1 January 2014.

8.1 Applicant’s injury claims

Comsteel claims that it has experienced injury in the form of:

- loss of sales volume;

[8] Subsection 269TDA(1)
[9] Subsections 269TDA(3) and (4)

- loss of market share;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced return on investment (ROI);
- reduced attractiveness to reinvest; and
- reduced employment numbers.

8.2 Volume injury

8.2.1 Sales volume

Figure 1 below depicts the volume of railway wheels sold by Comsteel in the injury analysis period.

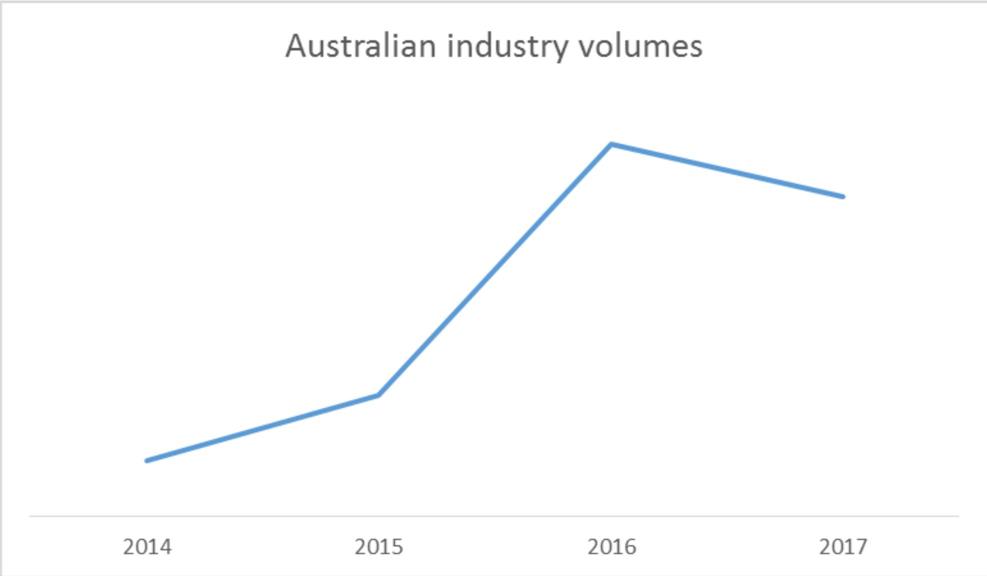

Figure 1: Volume of railway wheels sold by Comsteel

The following are the tender processes that were relevant to the supply or potential supply of railway wheels in Australia during the investigation period:

Customer	Awarded date	Result
BHP Billiton	November 2016	Awarded to a supplier of allegedly dumped goods
BHP Billiton	September 2017	Awarded to a supplier of allegedly dumped goods
Rio Tinto	mid-2017	Proportion of requirements awarded to a supplier of allegedly dumped goods
Fortescue Metals	mid-2017	Awarded to a supplier of allegedly dumped goods

Roy Hill	October 2017	Awarded to a supplier of allegedly dumped goods

Table 3: Tender processes in the injury analysis period[10]

Comsteel supplied information in relation to its unsuccessful bids and claimed that it had lost sales in the investigation period to the allegedly dumped imports from France and China. Based on the information provided, the Commission's preliminary view is that Comsteel has suffered injury in the form of reduced sales volumes.

8.2.2 Market share

Figure 2 below demonstrates the proportion of the Australian market that was supplied by Comsteel and imports from China and France. The Commission is not currently aware of imports from other countries during the injury analysis period.

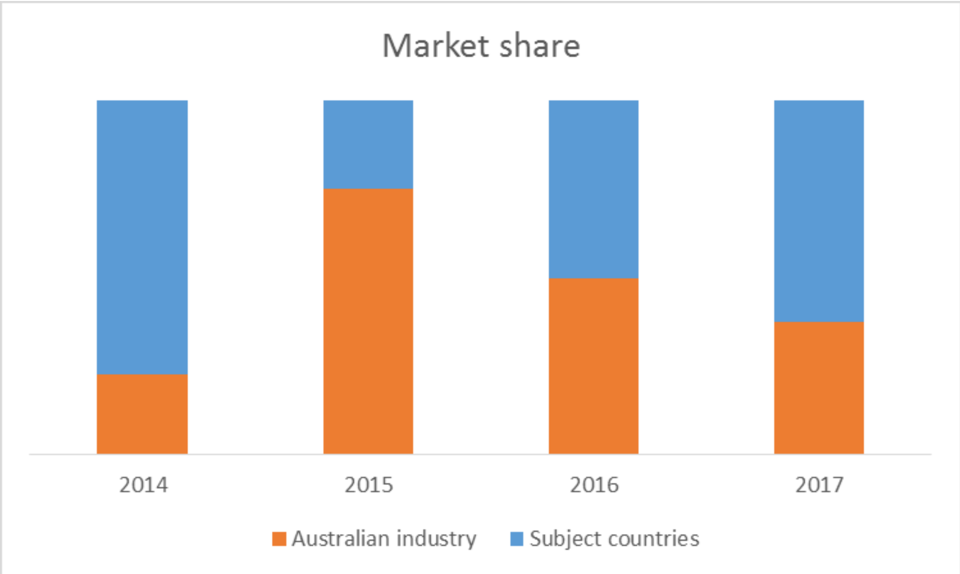

Figure 2: Shares in the Australian railway wheels market

Figure 2 depicts the loss of market share by the Australian industry between 2015 and 2017 and the growth of the Chinese and French exporters' market shares during that time.

The Commission considers that Comsteel has experienced injury in the form of a loss of market share.

8.2.3 Conclusion – volume effects

Commission considers that there is evidence to support Comsteel's claim that it experienced injury in the form of lost sales volume and lost market share.

8.2 Price injury

8.3.1 Price suppression

Comsteel claimed that it experienced injury in the form of price suppression in the injury analysis period.

[10] Some of these tender processes and subsequent negotiations were for an extended period.

Price suppression occurs when price increases for the applicant's product, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Figure 3 demonstrates that during the investigation period, Comsteel experienced an increase in its cost to make and sell (CTMS), resulting in a per unit loss position.

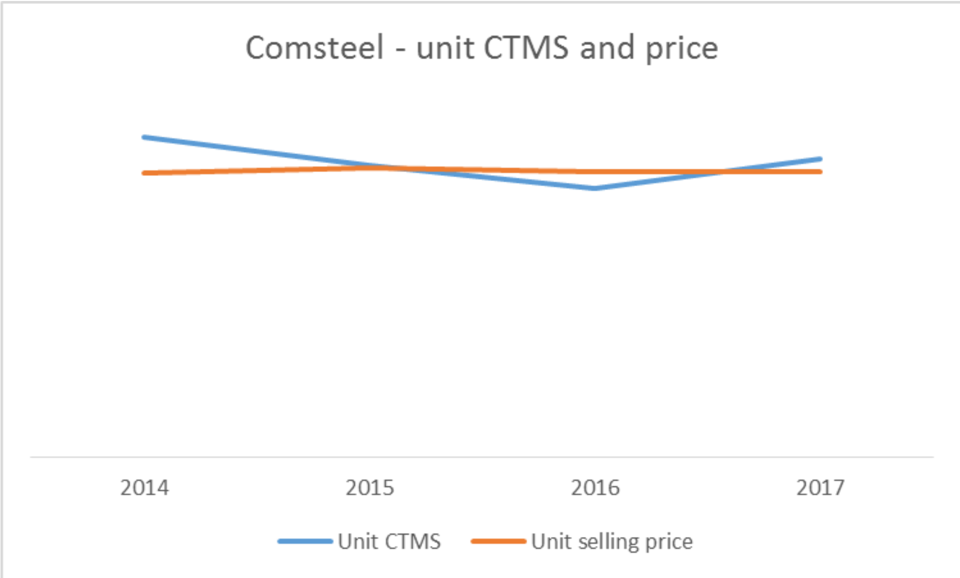

Figure 3: Comparison of Comsteel Unit CTMS and Unit Sales Revenue

8.3.2 Conclusion – price effects

The Commission considers that there are reasonable grounds to support the claim that the Australian industry suffered injury in the form of price suppression as it has not been able to increase prices to offset the increases in CTMS.

8.4 Profits and profitability

Figure 4 demonstrates Comsteel's profit and profitability during the injury analysis period.

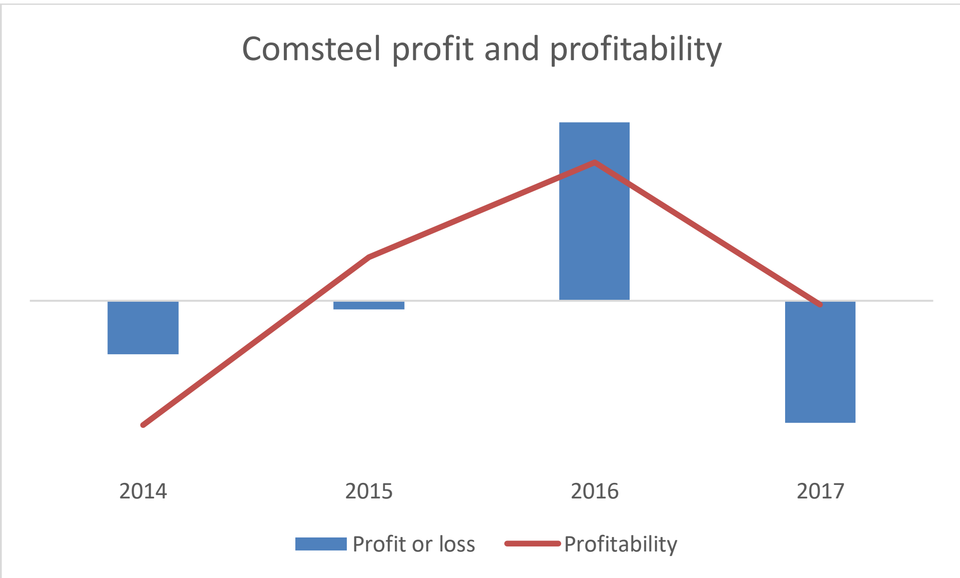

Figure 4: Comsteel profit and profitability

The profit and profitability follows a similar trend to volumes (as depicted in Figure 1), with an improvement in Comsteel's net profit position with increased volumes between 2014 and 2016, followed by a deterioration to a net loss position with reduced volumes in the investigation period.

8.4.1 Conclusion – profit effects

A combination of Comsteel's inability to increase prices and falling volumes have impacted Comsteel's profits during the investigation period, moving from a profit-making in 2016 to a loss-making position in the investigation period. The Commission considers that there appears to be reasonable grounds to support claims that the Australian industry has suffered injury in the form of reduced profits and profitability during the investigation period.

8.5 Other injury factors

In its application, Comsteel claimed that it had experienced injury in the form of other injury factors regarding:

- reduced return on investment (ROI);
- reduced attractiveness to reinvest; and
- reduced employment numbers

8.5.1 ROI

The Comsteel application calculates ROI based on net profit or loss as a proportion of assets used in the production of the goods. The Commission examined evidence of Comsteel being unsuccessful on bids based on price, resulting in price suppression affecting profits and profitability. Reduced profit resulted in a reduced ROI. Figure 5 below demonstrates a sharp decline in ROI between 2016 and 2017.

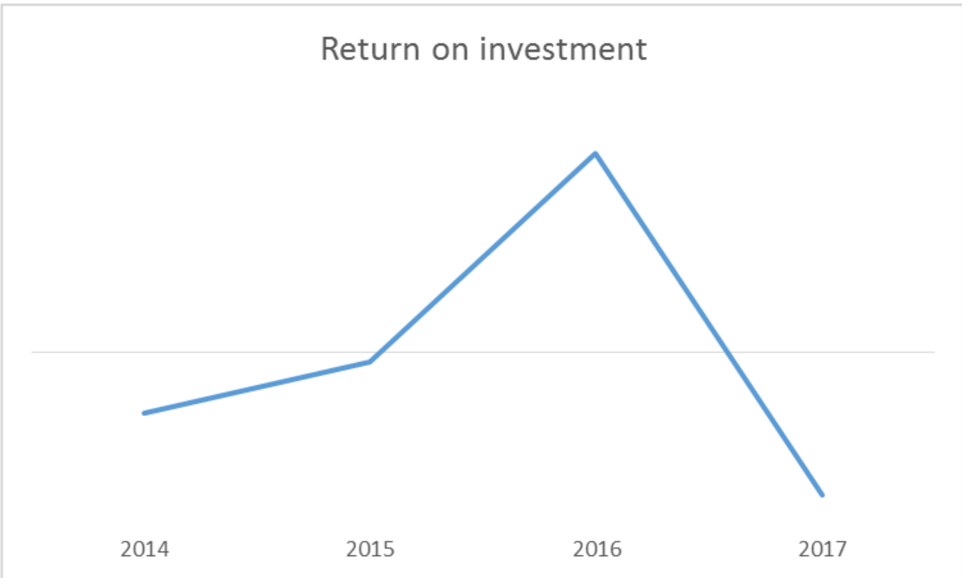

Figure 5: Comsteel ROI in Railway wheels division

Based on the information provided, the Commission has formed a preliminary view that Australian industry has experienced injury in the form of reduced ROI.

8.5.2 Reduced attractiveness to reinvest

Comsteel clarified during the verification visit that reduced attractiveness to reinvest relates to the reluctance of its new parent entity to further invest capital in the railway wheels business when it is unable to secure tenders for future supply. Comsteel claimed that this was due to imports at dumped prices. The Commission requested evidence to support the claim that Comsteel has been unable to secure further capital investment due to its inability to secure tenders for future supply, which it was unable to provide. The Commission has been unable to ascertain injury in the form of reduced attractiveness to reinvest.

8.5.3 Employment

Employment within the railway wheels business has followed a general downward trend during the injury analysis period. Between 2014 and 2015, Comsteel's Rail Division reduced employment numbers by 30 percent. During the investigation period employment numbers were reduced by 10 percent. Comsteel claimed that the reductions in employment numbers in the investigation period were due to retrenchments caused by reduced sales volumes resulting from loss of railway wheel contracts.

Employment numbers provided by Comsteel were for the Rail Division which the Commission understands includes employees manufacturing all types of wheels produced by Comsteel. The Commission's analysis of Comsteel's production volumes indicated that production of wheels outside the goods description had remained reasonably consistent over the injury period and that the decline in total wheel production was primarily attributed to the decline in the production of the goods.

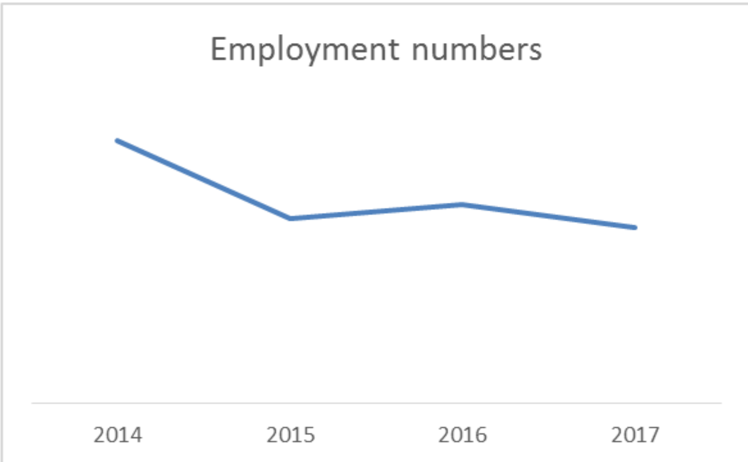

Figure 6: Comsteel employees in Railway wheel division

Due to retrenchments as a consequence of reduced sales and production volumes of railway wheels, the Commission has formed a preliminary view that the Australian industry has experienced injury in the form of reduced employment numbers.

8.5.4 Capacity utilisation

While Comsteel's capacity has remained stable during the injury analysis period, capacity utilisation has been negatively impacted during the investigation period.

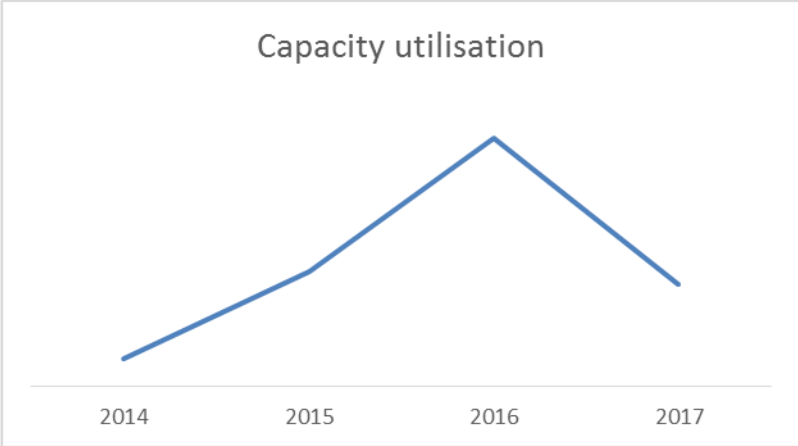

Figure 7: Comsteel capacity utilisation of Railway wheels division

Lower volumes have resulted in injury to the Australian industry in the form of reduced capacity utilisation.

8.5.5 Revenue

Figure 8 demonstrates an increase in revenues between 2014 and 2016, and then reduced revenues in the investigation period. Reduced sales volumes (refer section 8.2.1) and an inability to increase prices (section 8.3.1) has resulted in injury in the form of reduced revenue.

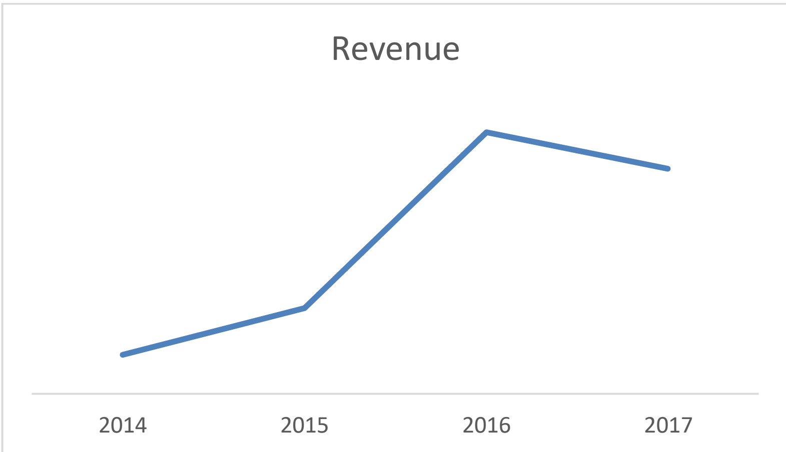

Figure 8: Comsteel revenue from railway wheels

8.5.6 Other indicators

The Commission also reviewed the following economic factors:

Assets –assets are used collectively for the Rail Division, and a proportion has been allocated as relevant to the production of railway wheels. The value of assets did not demonstrate injury in the form of reduced asset values.

R&D - the information provided is not apportioned for the production of the goods and was not used by the Commission to draw any conclusions concerning injury in the form of reduced R&D investment.

Capacity – Comsteel’s capacity to produce the goods has remained stable during the injury analysis period.

Productivity – measured using 'overall equipment effectiveness'. Productivity has remained stable during the injury analysis period.

Wages – Average wages have increased during the injury analysis period, which may be partly a result of reduced employment numbers in the same period. No injury in the form or reduced wages was found.

8.5.7 Conclusion – other injury factors

The Commission considers that there is evidence that Comsteel has suffered injury during the investigation period in the form of:

- reduced ROI;
- reduced capacity utilisation;
- reduced employment numbers;
- reduced revenue.

The Commission was unable to ascertain that there has been injury in the form of reduced attractiveness to reinvest.

8.6 Conclusion on injury

Based on an analysis of the information contained in the application and obtained and verified during the Commission's visit to Comsteel, the Commission's preliminary view is that Comsteel has experienced injury in the form of:

- loss of sales volume;
- loss of market share;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced ROI;
- reduced capacity utilisation;
- reduced employment numbers;
- reduced revenue.

9. Causal link between dumping and material injury

9.1 Cumulative effects of exportations

Subsection 269TAE(2C) sets out the requirements for assessing the cumulative effects of goods exported to Australia from different countries. In relation to a dumping investigation, where exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day (as is the case in this investigation), the cumulative effects of such imports may be assessed if:

- the margin of dumping established for exporters in each country is not negligible; and
- the volume of dumped imports from each country is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and between the imported goods and like goods that are domestically produced.

The preliminary dumping margins determined by the Commission and the volumes of dumped imports from China and France are not negligible. The Commission has made a preliminary assessment of the conditions of competition between the goods exported from China and France and like goods produced by Australian industry. Railway wheels exported from China and France have competed against each other in tenders in Australia. The Commission is aware of customers in Australia switching between exports from China and France. Similarly, domestically produced goods have competed against exports from China and France for sales in Australia, including in tender processes.

The Commission's preliminary view is that it is appropriate to consider the cumulative effects of the dumped imports from China and France.

9.2 Size of the dumping margins

Subsection 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The preliminary dumping margins outlined above for China and France, 17.0 percent for China and 28.2 percent for France (28.3 percent for uncooperative and all other exporters), are above negligible levels (i.e. above two percent). The Commission considers that the magnitude of dumping provided exporters from China and France with the ability to offer railway wheels to importers/end users at lower prices than would otherwise have been the case.

9.3 Volume effects

Figure 9 depicts the sales volumes in the Australian market from 2014 to 2017.

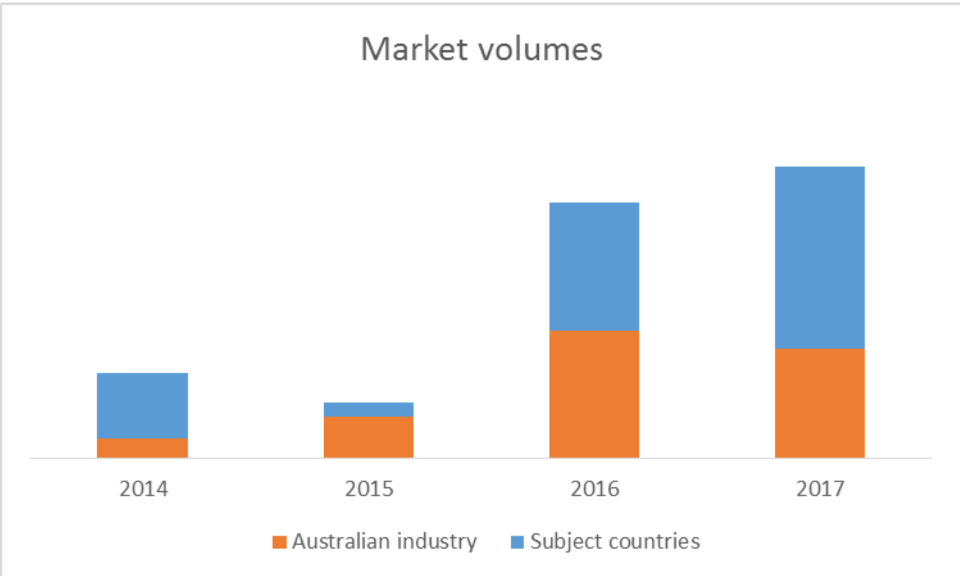

Figure 9: Volumes of the Australian market for railway wheels

Figure 9 demonstrates that the size of the railway wheel market in Australia increased significantly in 2016 and again in 2017. However, while volumes from countries subject of this investigation have increased between 2016 and 2017, Australian industry's volumes declined in the investigation period.

Table 3 (refer section 8.2.1) details the tenders that impacted on sales in the investigation period. Comsteel was unsuccessful in all of these tenders. Comsteel provided the Commisison with feedback it had received following tenders advising that it had been unsuccessful as its price was well above its competitors. The successful competitors in all of these tenders were suppliers of allegedly dumped goods.

In its submission of 5 June 2018, Rio Tinto claimed that the volatility in iron ore commodity markets in recent years had caused diversified miners such as Rio Tinto to pursue productivity improvements including exploring opportunities to increase the operational life of railway wheels. It claimed that the successful implementation of these measures had resulted in a material incremental reduction in Rio Tinto's demand for new or replacement railway wheels. Rio Tinto submitted that the erosion of Comsteel's expected sale volumes that has occurred as a result of productivity measures could not be entirely attributed to the presence of imported railway wheels in the Australian market.

The Commission's preliminary view is that the market for railway wheels in Australia increased between 2016 and 2017 and that Comsteel's loss of sales volumes and market share was at the expense of increased imports from China and France.

9.4 Price effects

Comsteel claims that its prices were undercut by allegedly dumped import prices of railway wheels from China and France.

Comsteel provided evidence of price pressure in order to establish a causal link between the allegedly dumped imports and the injury suffered as a result of price undercutting and price suppression. Comsteel provided communications from customers informing Comsteel that it has been unsuccessful in tender bids due to lower prices from overseas sources.

The Commission has used information obtained from Comsteel, Masteel, Valdunes and importer/end users of railway wheels to undertake a preliminary price undercutting analysis. This analysis was undertaken comparing the cost of the imports from China and France delivered to Perth (adding importation costs as necessary) with Comsteel's prices at the same terms. This analysis shows that, in 2017, the allegedly dumped imports undercut Comsteel's selling prices by significant margins. Successful bids by suppliers of the allegedly dumped imports in late 2016 and during 2017 also significantly undercut Comsteel's offer prices for like goods.

The communications provided by Comsteel, and information obtained from the importers/end users of railway wheels in Australia support Comsteel's claim that it has suffered injury in the form of price suppression, as it has experienced pressure to maintain or reduce pricing at a time when it was experiencing rising unit costs (as demonstrated in Figure 3 above).

9.5 Profits and profitability

Comsteel alleged that injury to profit and profitability occurred through loss of profits through lost sales volumes due to unsuccessful bids.

Given that Comsteel:

- lost volumes during the investigation period to allegedly dumped imports; and
- due to price pressure from the allegedly dumped imports, was unable to increase its prices in line with unit cost to make and sell increases;

the Commission's preliminary assessment is that there is a causal link between injury suffered by Comsteel in the form of reduced profits and the allegedly dumped imports from China and France.

9.6 ROI

As stated in section 8.5.1 Comsteel has experienced injury in the form of reduced ROI during the investigation period. The calculation of ROI is based on Comsteel's net profit or loss position and its volumes. Comsteel has provided evidence to support its claim that it lost volumes due to lower priced import offers to customers/end users. Comsteel's profit position has been impacted by lower volumes (section 9.3) and its inability to increase prices (section 9.4 refers) due to price pressure from dumped imports. These factors in turn have resulted in reduced ROI. It is the Commission's preliminary view that dumped imports have caused injury to the Australian industry in the form of reduced ROI.

9.7 Capacity utilisation

Figure 7 demonstrates Comsteel's capacity utilisation rates during the injury analysis period.

During 2014 to 2016, Comsteel's capacity was under-utilised particularly between 2016 and 2017. The under-utilisation of Comsteel's facilities in the investigation period can be attributed to contracts lost at tender in 2016 and 2017 to allegedly dumped imports and its impact on volumes. As Comsteel is able to use its capacity to manufacture other wheels that are not the goods, the Commission has analysed volumes of other wheels produced in the period, which remained stable while volumes of railway wheels (the goods) declined. Due to the loss of tenders to dumped imports, Comsteel has produced lower volumes causing injury in the form of reduced capacity utilisation.

9.8 Employment numbers

The reduction in employment numbers during the injury period coincides with reduced capacity utilisation and total production volumes in Comsteel's Rail Division.

The Commission's analysis of Comsteel's production volumes indicated that production of wheels outside the goods description had remained reasonably consistent over the injury period and that the decline in total wheel production was primarily attributed to the decline in the production of the goods, which had in turn been caused by the loss of tenders to overseas suppliers. Consequently, the Commission has preliminarily accepted that the decline in employment levels were due to the loss of volumes in the railway wheels business.

There is reasonable grounds to support the claim that the Australian industry suffered injury in the form of reduced employment numbers due to allegedly dumped imports.

9.9 Revenue

The Commission's preliminary view is that Comsteel's loss of revenue in the investigation period was caused by the loss of sales to the allegedly dumped goods.

9.10 Injury caused by factors other than dumping

The Commission has made a preliminary assessment of whether any injury to the industry is being caused by a factor other than the exportation of the allegedly dumped goods.

9.10.1 Non-price related factors

It is clear to the Commission from discussions with Comsteel and the importers/end users of railway wheels in Australia that price is not the only factor relevant to the purchasing decision.

For example, reliable performance is an important consideration for the iron ore mining companies, both from standpoint of safety and the efficient operation of the rail infrastructure. Timely and convenient delivery arrangements, warranty offers and low wear rates are also factors relevant to supplier selection.

In its submission of 5 June 2018, Rio Tinto claimed that material differences in quality between the Chinese and Australian manufactured railway wheels is a factor that arguably explains any injury suffered by Comsteel. Rio Tinto submitted that these quality issues were represented by:

- safer and more efficient packaging arrangements provided by Masteel;
- a superior rate of wheel wear and therefore lifespan of the Masteel wheels; and
- incidents of shattered rims with Comsteel's wheels and no such issues with wheels supplied by Masteel.

In its meeting with the Commission, Rio Tinto advised that it had been frustrated and disappointed with Comsteel's lack of responsiveness to efforts to improve efficiencies (thereby reducing the cost profile of railway wheels for both Comsteel and Rio Tinto).

BHP also advised the Commission of incidents of the failure of Comsteel wheels, although indicated that these had not been a factor in selecting a supplier in its tender processes in 2016 and 2017.

The Commission will continue to investigate claims that non-price factors caused or contributed to injury suffered by Comsteel. However, at this stage of the investigation, the Commission's preliminary view is that price was a key factor in the purchasing decisions of the iron ore mining companies and that the goods that have preliminarily assessed as being dumped significantly undercut Comsteel's prices, making them considerably more attractive to Australian customers than they otherwise would have been.

The Commission understands that Comsteel was classified as an approved supplier in BHP's 2016 and 2017 tender processes that were decided on price and Rio Tinto continues purchase from Comsteel, albeit in limited quantities. FMG did not advise the Commission of any concerns about Comsteel's performance or quality and advised that price was not the only issue but an important factor in its procurement decision.

In its submission, Rio Tinto also claimed that the price difference between Chinese imports and locally manufactured railway wheels was not the result of dumping and/or subsidisation but instead was the result of the following factors:

- a combination of lower labour costs and higher productivity in China;
- economies of scale available to Chinese manufacturers;
- lower tariffs due to the Chinese-Australia Free Trade Agreement;
- unfavourable exchange rate movements; and
- less environmental regulation in China.

As noted in section 7 above, the Commission's preliminary assessment is that exports of railway wheels to Australia from China in the investigation period were dumped by a significant margin. It is the purpose of the anti-dumping system to address material injury caused to an Australian industry by the dumping and/or subsidisation of exports to Australia. The Commission will seek to ensure that any injury caused by any advantages overseas suppliers might have as a result of economic factors is not attributed to dumping and/or subsidisation.

9.10.2 The impact of the iron ore market

The quantities of iron ore mined and the price of iron ore are factors that have the potential to impact on the demand for railway wheels. As more iron ore is sold and hauled, more railway wheels are required for maintenance of an increasing number of the carriages. Lower iron ore prices, such as those experienced by Australian mining companies in 2014 and 2015, resulted in cost pressures on Australian iron ore producers. During this time, customers reduced maintenance spend, consumed contingent wheel stocks and used second-hand redundant wheels in general maintenance.

In 2016, rising iron ore sales quantities and prices saw railway wheel demand increase significantly compared to 2014 and 2015. Total annual demand rose again in 2017, compared to 2016. The Commission's preliminary view is that the iron ore market is not a factor that has caused injury to the Australian industry producing like goods in the investigation period.

9.10.3 Production and sale of other types of wheels

Railway wheel manufacturing involves significant fixed costs and changes in overall throughput have the potential to significantly impact on unit costs across all production, including like goods. The Commission examined Comsteel's production volumes of wheels that are not like goods to the goods under consideration and found that the production volumes were reasonably consistent through the injury analysis period. The Commission's preliminary view is that production volumes of other goods did not contribute to injury to the Australian industry producing like goods.

9.10.4 Sales of wheel sets

In some cases, Comsteel supplies customers with a 'wheel set', consisting of a new or reconditioned axle and two wheels. The Commission does not consider that a wheel set is a like good but recognises the sale of wheels in sets has the potential to impact on sales of like goods. For example, an increase in demand for 'wheel sets' could reduce the demand for sales of loose wheels.

Comsteel provided information to the Commission on its sales of wheel sets over the injury analysis period. While the Commission will expand its analysis in the Statement of Essential Facts, its current view is that the pattern of sale of wheel sets by Comsteel is not a factor causing injury to the Australian industry and is not a factor that would diminish the injury that appears to have been caused by the allegedly dumped imports.

9.10.5 Exports by Comsteel

In the injury analysis period, Comsteel exported like goods to be fitted to new iron ore railway carriages, with the new carriages subsequently imported into Australia. The demand for such exports by Comsteel is irregular, being dictated by the mining companies' new iron ore carriage requirements and Comsteel being successful as the supplier of wheels for the new carriages built overseas.

The Commission will investigate this factor further, as it is evident that any loss of export volumes is a factor in increasing unit costs as fixed production costs are spread over a small number of units. However, the Commission is of the view that the pattern of exports experienced by Comsteel is not a factor that would diminish the injury that appears to have been caused by the allegedly dumped imports.

9.11 Injury to the Australian industry caused by dumping – preliminary assessment

Based on the Commission's preliminary analysis of the information collected to date, verification of Australian industry's injury claims and the preliminary dumping margin calculations, the Commission considers that there appears to be sufficient grounds for the publication of a dumping duty notice.

The Commission is continuing to validate and assess the information provided and develop its analysis. However, the Commission considers there is sufficient evidence at this time to establish that there appears to be sufficient grounds to support Australian industry's claim that injury caused by the alleged dumping of the goods has been experienced in the forms listed in section 8.6 of this report.

10 Unsuppressed price and non-injurious price

The non-injurious price (NIP) is relevant to subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975,* which requires consideration of the desirability of fixing a lesser amount of duty if sufficient to remove injury to the Australian industry.

The Commission's Dumping and Subsidy Manual specifies that *"…The Commission will generally derive the NIP from an unsuppressed selling price (USP). The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports…".*

The Dumping and Subsidy Manual further provides the following hierarchy for determining a USP *"…In calculating the USP, the Australian industry's selling prices will normally be used at a time unaffected by dumping. If there are sound reasons for not using this approach, a price may be constructed based on the industry's cost to make and sell, plus a profit. If either of these methods is not appropriate, the selling prices of undumped imports in the Australian market will be used."*

For the purposes of this PAD, the Commission has used a USP based on Comsteel's selling price of wheels at a price delivered to Perth in 2017. Although 2017 is a period during which the Commission preliminarily assesses that Comsteel was suffering material injury caused by dumping, the Commission notes that Comsteel had not reduced its prices. However, the Commission considers Comsteel was suffering price suppression and will consider the need to modify the USP to take into account this factor as the investigation continues.

The Commission calculated a NIP by deducting representative costs incurred to move the goods from an FOB point each country of export through to delivery to Perth.

The preliminary NIP was higher than the preliminary normal value calculated by the Commission for each of the cooperating exporters and any other exporters from China or France and hence the NIP is not the operative measure.

11 Other matters considered relevant – subsection 269TD(2)(b)

In accordance with section 7 of PAD Direction and for the purposes of subsection 269TD(2)(b) of the Act, I have considered the desirability of providing relief to an injured Australian industry, as quickly as possible, where warranted.

12 Provisional Measures

12.1 Form of duty

The forms of duty available under the *Customs Tariff (Anti-Dumping) Regulation 2013* include:

- combination fixed and variable duty method ('combination duty method');
- fixed duty method;
- floor price duty method; and
- *ad valorem* duty method (i.e. a percentage of export price).

These forms of duty all have the same objective of removing the injurious effects of dumping; however in achieving this objective certain forms of duty will better suit the particular circumstances of some investigations more so than other forms of duty.

For the purposes of this PAD, I have had regard to the *Guidelines on the Application of Forms of Dumping Duty – November 2013* (the Guidelines).[11]

The current proposed securities are recommended to be taken as an amount worked out in accordance with the combination fixed and variable duty method. The fixed component of securities will be imposed in relation to the goods exported to Australia from China and France at the rates specified in Table 1 of preliminary dumping margins.

Affected parties should contact clientsupport@adcommission.gov.au on telephone number 13 28 46 or +61 2 6213 6000 (outside Australia) for further information regarding the actual security liability calculation in their circumstance.

Anti-Dumping Commission contact

Enquiries about this public notice may be directed to the case manager via email at investigations4@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

18 June 2018

[11] Available at www.adcommission.gov.au