



**Australian Government**  
**Anti-Dumping Commission**

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**CUSTOMS ACT 1901 - PART XVB**

# **CONSIDERATION REPORT NO. 331**

**APPLICATION FOR A COUNTERVAILING DUTY NOTICE**

**ROD IN COILS EXPORTED FROM THE PEOPLE'S  
REPUBLIC OF CHINA**

**17 February 2016**

**CON 331 – Rod in Coils – China**

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### ABBREVIATIONS

ABF	Australian Border Force
ADN	Anti-Dumping Notice
AS/NZS	Australian and New Zealand Standard
AUD	Australian dollars
China	The People's Republic of China
CTMS	cost to make and sell
Customs Act	<i>Customs Act 1901</i>
FOB	free on board
NIP	non-injurious price
PAD	Preliminary Affirmative Determination
Parliamentary Secretary	Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
SEF	Statement of Essential Facts
SG&A	selling, general and administrative expenses
SIE	State Invested Enterprise
the applicant	OneSteel Manufacturing Pty Ltd
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
the GOC	The Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration)
USD	US dollars
USP	unsuppressed selling price
VAT	value added tax

## 1 FINDINGS AND RECOMMENDATION

### 1.1 Background

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by OneSteel Manufacturing Pty Ltd (OneSteel) for the publication of a countervailing duty notice in respect of rod in coils exported to Australia from the People's Republic of China (China).

### 1.2 Legislative Framework

Divisions 1 and 2 of Part XVB of the *Customs Act 1901* (the Act)<sup>1</sup> sets out procedures for considering an application for a countervailing duty notice.

#### 1.2.1 The role of the Commission

The Commission is responsible for preparing a report for the Anti-Dumping Commissioner (the Commissioner) examining an application for a countervailing duty notice.

In this report, the following matters are considered in relation to the application:

- whether the application complies with subsection 269TB(4);
- whether there is, or is likely to be established, an Australian industry in respect of like goods;
- whether there appear to be reasonable grounds for the publication of a countervailing duty notice in respect of the goods the subject of the application.

#### 1.2.2 The role of the Commissioner

The Act empowers the Commissioner, after having regard to the application and to any other information the Commissioner considers relevant, to reject or not reject an application for the publication of a countervailing duty notice.

If the Commissioner decides not to reject the application, the Commissioner must give public notice of the decision providing details of the investigation.

### 1.3 Findings and conclusions

In accordance with subsection 269TC(1), the Commission has examined the application and is satisfied that:

- The application complies with the requirements of subsection 269TB(4) (as set out in section 3 of this report)
- There is an Australian industry in respect of like goods (as set out in section 4 of this report)
- There appear to be reasonable grounds for the publication of a countervailing duty notice in respect of the goods the subject of the application (as set out in sections 5, 6 and 7 of this report).

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<sup>1</sup> All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

#### **1.4 Recommendations**

Based on the above findings, the Commission recommends that the Commissioner decide not to reject the application and initiate an investigation to determine whether a countervailing duty notice should be published.

The Commission further recommends that:

- Exports to Australia during the investigation period 1 July 2014 to 30 June 2015 be examined for subsidisation;<sup>2</sup> and
- details of the Australian market from 1 July 2011 will be examined for injury analysis purposes.

If the Commissioner accepts this recommendation, to give effect to that decision, the Commissioner must publish the notice at **Appendix A**.

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<sup>2</sup> In its application, OneSteel suggested 1 October 2014 to 30 September 2015 as the investigation period. In this case, the Commission considers that it is appropriate to align the investigation period with the current rod in coils dumping Investigation (INV 301) from China. On that basis, the Commission recommends that the investigation period from 1 July 2014 to 30 June 2015.

## 2 BACKGROUND

### 2.1 Application

On 15 January 2016, Onesteel lodged an application requesting that the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary) publish a countervailing duty notice in respect of rod in coils exported to Australia from China.

On 1 February and on 8 February 2016, OneSteel provided further information relation to the application.

The applicant alleges that the Australian industry has suffered material injury caused by rod in coils exported to Australia from China at dumped<sup>3</sup> and subsidised prices.

The applicant claims that the Australian industry had been injured through:

- price depression;
- price suppression;
- price undercutting;
- lost market share;
- lost sales volume;
- loss of revenue;
- loss of profits;
- loss of profitability;
- loss of employment;
- loss of capacity to produce the like goods; and
- loss of assets employed in the production of the like goods.

### 2.2 The goods the subject of the application

#### 2.2.1 Description

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

*Rod in coils, whether or not containing alloys, that have maximum cross sections of less than 14mm.*

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

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<sup>3</sup> On 12 August 2015, the Commissioner initiated a dumping investigation in relation to rod in coils (INV 301) exported to Australia from China. A preliminary finding of that investigation is contained in SEF 301 which was published on 15 February 2016.

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Tariff classification ( <i>Schedule 3 of the Customs Tariff Act 1995</i> ) <sup>4</sup>				
Tariff code	Statistical code	Unit	Description	Duty rate
7213.91.00	44	Tonne	Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel of circular cross-section measuring less than 14mm in diameter.	5% DCS: Free <sup>5</sup>
7227.90.90	02 <sup>6</sup>	Tonne	Bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel of circular cross-section measuring less than 14 mm in diameter  (excl. those of stainless, high speed or silico-manganese steel & those of HTISCs 7227901069 and 7227909001) <sup>7</sup>	5% DCS: Free

### Exclusions:

Goods excluded from this application include hot-rolled deformed steel reinforcing bar in coil form, commonly identified as rebar or debar, and stainless steel in coils.

### 2.2.2 Tariff Concession Orders

There is currently no tariff concession order (TCO) applicable to the goods.

### 2.3 Other investigations and current measures

On 12 August 2015, the Commissioner initiated a dumping investigation in relation to rod in coils (Investigation number 301 (INV 301)) exported to Australia from China. The statement of essential facts number 301 (SEF 301) for this investigation was published on 15 February 2016. The final report is due on 29 March 2016, unless an extension is approved by the Parliamentary Secretary.

On 17 June 2015<sup>8</sup>, following the Commissioner's dumping Investigation number 240 (INV 240) into rod in coils exported to Australia from the Republic of Indonesia (Indonesia),

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<sup>4</sup> As of the publication date of this report.

<sup>5</sup> 'DCS' is a code applied to classes of countries and places in relation to which special rates apply as specified in Part 4 of Schedule 1 of the *Customs Tariff Act 1995*.

<sup>6</sup> Statistical code 02 came into effect on 1 January 2015; prior to this, the relevant statistical code was 42.

<sup>7</sup> Australian Bureau of Statistics, *International trade in goods and services, Australia* (Oct 2014 issue), refers.

<sup>8</sup> Anti-Dumping Notice (ADN) 2015/76 refers



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Taiwan and the Republic of Turkey (Turkey)<sup>9</sup>; anti-dumping measures were imposed on rod in coils exported to Australia from Indonesia<sup>10</sup> and Taiwan.

### 2.4 Other administrations

In its application OneSteel made references to the following administrations whereby anti-dumping and/or countervailing measures have been imposed on rod in coils:

#### United States:

- On 19 November 2014, Final Determination of Sales at less than Fair Value of Carbon and Certain Alloy Steel Wire Rod exported from the China was imposed; and
- 19 November 2014, Final Affirmative Countervailing Duty Determination was imposed on Carbon and Certain Alloy Steel Wire Rod exported from China<sup>11</sup>.

#### European Commission:

On 27 July 2009, Council Regulation (EC) No 703/2009 imposed a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of wire rod originating from China.

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<sup>9</sup> On 14 May 2015, the Commissioner terminated part of Investigation 240, as it related to exports Turkey

<sup>10</sup> Other than PT Ispat Indo

<sup>11</sup> Whilst this investigation is not specifically mentioned in the application, this determination is referenced in the supporting material provided by OneSteel

### **3 DOES THE APPLICATION COMPLY WITH SUBSECTION 269TB(4)?**

#### **3.1 Finding**

Based on the information provided in the application, the Commission is satisfied that the application complies with subsection 269TB(4) of the Act.

#### **3.2 Legislative framework**

Subsection 269TB(4) requires that the application must:

- be in writing;
- be in an approved form;
- contain such information as the form requires;
- be signed in the manner indicated by the form;
- be supported by a sufficient part of the Australian industry; and
- be lodged in the manner approved under section 269SMS.

#### **3.3 Approved form**

The application is in writing, is in an approved form (a B108 application form), contains such information as the form requires (as discussed in the following sections) and is signed in the manner indicated in the form.

Confidential and public record versions of the application were submitted. The Commission considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information within the confidential application.

The application was lodged electronically to the Commission to the address provided in the Commissioner's Instrument in relation to the lodgement of applications relating to anti-dumping matters (available on the Commission's website), which is a manner approved under subsection 269SMS(2).

Subsequent to the initial application, on 1 February and on 8 February 2016, OneSteel provided additional information to the Commission. As such the 20 day consideration period was revised accordingly.

#### **3.4 Supported by Australian industry**

An application is taken to be supported by a sufficient part of the Australian industry if the Commissioner is satisfied the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50 per cent of the total production or manufacture of like goods produced or manufactured by that portion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25 per cent of the total production or manufacture of like goods in Australia.

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OneSteel advised that it is the sole Australian manufacturer of the goods subject to the application. Therefore, the Commission is satisfied that the application is supported by a sufficient part of the Australian industry.

### **3.5 The Commission's assessment**

Based on the information submitted by the applicant, the Commission considers that the application complies with subsection 269TB(4) of the Act.

## 4 IS THERE AN AUSTRALIAN INDUSTRY IN RESPECT OF LIKE GOODS?

### 4.1 Finding

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application on the basis that:

- OneSteel produces goods that have characteristics that closely resemble the goods the subject of the application; and
- those goods produced by OneSteel are wholly manufactured in Australia.

### 4.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a countervailing duty notice if, *inter alia*, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of the like goods.

Like goods are defined under subsection 269T(1), subsections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

### 4.3 Domestically produced like goods

The table below summarises the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods.

The Commission notes that goods description subject to this application are the same goods as in investigations INV 240 and INV 301.

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<b>Factor</b>	<b>The applicant's claims</b>	<b>The Commission's assessment</b>
<p><b>1. Physical likeness</b></p>	<p>That OneSteel's domestically produced rod in coils and the imported goods are physically alike because both are:</p> <ul style="list-style-type: none"> <li>• Manufactured to the requirements of the Australian and International Standards for the applicable end-use;</li> <li>• are alike in physical appearance; and</li> <li>• are manufactured in a range of grades and diameters.</li> </ul>	<p>The Commission is satisfied that:</p> <ul style="list-style-type: none"> <li>• Based on a comparison of information provided by OneSteel and documentation provided by importers during the current dumping Investigation INV 301, the goods the subject of the application are consistent with those in INV 301;</li> <li>• The goods the subject of the application were imported under tariff classifications for rod in coils (consistent with those in INV 301); and</li> <li>• The goods produced by OneSteel appear to be physically consistent with those examined during INV 301, based on the grade information provided by OneSteel containing detailed information on section diameter, chemical analysis and coil dimensions.</li> </ul> <p>Based on the above assessment, the Commission is satisfied with the reasonableness of the claims by OneSteel in relation to physical likeness between the goods the subject of the application and locally produced rod in coils.</p>

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Factor	The applicant's claims	The Commission's assessment
<p><b>2. Commercial likeness</b></p>	<p>That OneSteel's locally produced rod in coils and the imported goods are commercially alike because they compete directly in the Australian market.</p> <p>OneSteel's application included data and graphs suggesting that the supply of rod in coils from China increased in response to falling importations of rod in coils from Taiwan and Indonesia and that this change was close to the time that dumping measures were imposed as a result of Investigation INV 240. A PAD was published on 1 December 2015 as a result of INV 301, an on-going dumping investigation in relation to rod in coils from China.</p>	<p>The Commission has observed from the Australian Border Force (ABF) import database that around the same time that dumping measures were imposed as a result of INV 240 and current dumping investigation INV 301 that certain importers who imported rod in coils subject to the previous investigation have adjusted their source of supply country so as to import greater volumes of rod in coils from countries without measures, including China.</p> <p>Additionally, the Commission has observed from the information provided in the application that close price competition exists in the market between the imported rod in coils and the Australian produced goods, which suggests low product differentiation.</p> <p>Based on above, the Commission is satisfied with the reasonableness of the claims by OneSteel that there is a close commercial likeness between the goods subject of the application and the goods produced by the Applicant.</p>
<p><b>3. Functional likeness</b></p>	<p>That the locally produced rod in coils and the imported goods are functionally alike because both have comparable or identical end-uses.</p> <p>Both Imported and domestically produced rod in coils are further processed by cold drawing through a die to produce wire. Such wire is used in a range of end uses including:</p> <ul style="list-style-type: none"> <li>• Reinforcing mesh manufacturing;</li> <li>• Wire manufacturing;</li> <li>• Mine mesh manufacturing;</li> <li>• General manufacturing; and</li> <li>• Reinforcing ligatures.</li> </ul>	<p>In the current dumping investigation INV 301, the Commission found that imported rod in coils and OneSteel rod in coils are both used for the same end uses.</p> <p>Further, in INV 301 it was found that importers did not consider any alternative products as a suitable substitute for rod in coils for their businesses.</p> <p>Therefore, based on above the Commission is satisfied with the reasonableness of the claims by OneSteel in relation to functional likeness between the imported goods and locally produced rod in coils.</p>

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Factor	The applicant's claims	The Commission's assessment
<b>4. Production likeness</b>	That the rod in coils manufactured by OneSteel has a production likeness to the imported goods because both are manufactured in a similar manner and through similar manufacturing processes <sup>12</sup> .	<p>In INV 240 and in INV 301, the Commission found that rod in coils produced in Australia and rod in coils produced in China, Indonesia and Taiwan:</p> <ul style="list-style-type: none"> <li>• were manufactured in a similar manner; and</li> <li>• the major raw material input was same.</li> </ul> <p>The Commission therefore considers that it is reasonable for OneSteel to submit that there is a production likeness between the goods the subject of the application and that the goods are manufactured by the Applicant.</p>

**4.4 The Commission's assessment**

In current and in previous dumping investigations INV 301 and INV 240, the Commission found that OneSteel and cooperating importers of rod in coils, the goods produced by OneSteel, were like goods to rod in coils imported into Australia from China, Indonesia, Taiwan and Turkey.

Based on the above findings, the Commission considers that the locally produced goods in those investigations are the same as the locally produced goods in this application and therefore are like goods.

**4.5 Manufacture in Australia**

Section 4.6 below summarises the Commission's assessment of whether at least one substantial process of manufacture is carried out in Australia<sup>13</sup> and whether the like goods are, therefore, considered to have been manufactured in Australia.<sup>14</sup>

**4.6 Applicant's manufacturing operations**

OneSteel stated that rod in coils can be produced via a fully integrated steel production manufacturing process or, alternatively by using ferrous scrap metal as the principal raw material input to electric arc furnace steelmaking.

OneSteel advised in its application that rod in coils is either sold in 'straight' lengths (rod in coils straights) or 'coils' (rod in coils coils). Both rod in coils and rod in coils straights are produced in a variety of diameters.

OneSteel has summarised its rod in coils straights manufacturing process as follows:

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<sup>12</sup> Section 4.6 considers production of rod in coils in Australia in detail.

<sup>13</sup> Subsection 269T(3).

<sup>14</sup> Subsection 269T(2).

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- The raw material feed is steel billet;
- the billet is loaded into the reheat furnace and heated to approximately 1200 °C;
- the heated billet passes through a series of rolling stands;
- as the billet passes through each stand it gradually reduces in size and changes shape from a square section to a circular section;
- the final (finishing) stand rolls have a rib profile machined into them so that when the circular bar passes through the rolls, deformations (ribs) are formed on the bar;
- at the end of the rolling line, the bar is cooled and then quenched rapidly; and
- on exiting, the bar is slowly cooled so that the temperature gradient established over the cross-section of the bar causes heat to flow from the core to the surface resulting in a (tempered) steel microstructure.

OneSteel has summarised its rod in coils manufacturing process to follow the first five steps listed above for rod in coils straights prior to proceeding as follows:

- The bar then undergoes a further modification so as to achieve strength requirements, a process which is dependent on the particular mill;
- after the finishing stand, the deformed bar is looped into rings, cooled and formed into coils; and
- depending on the particular mill, the deformed bar will undergo a further modification process so as to achieve strength requirements and will then be spooled into a coil.

The above manufacturing process takes place at OneSteel's manufacturing facilities in Laverton, Victoria, and Sydney and Newcastle, New South Wales.

### 4.7 The Commission's assessment

Based on the above description of the manufacturing process and having sighted the manufacturing plants during the industry visits in relation to INV 240 and INV 301, the Commission is satisfied that there is at least one substantial process of manufacture that is performed in Australia and, therefore, the goods are produced in Australia.

### 4.8 Australian market

OneSteel estimated the size of the Australian market using Australian Bureau of Statistics (ABS) import data, trade data from a known published source, and its own sales to external customers. Using this data, OneSteel completed Confidential Appendix A2 to the application to estimate the size of the Australian market.

A Summary of the data gathered by OneSteel is set out in Figure 1 below.



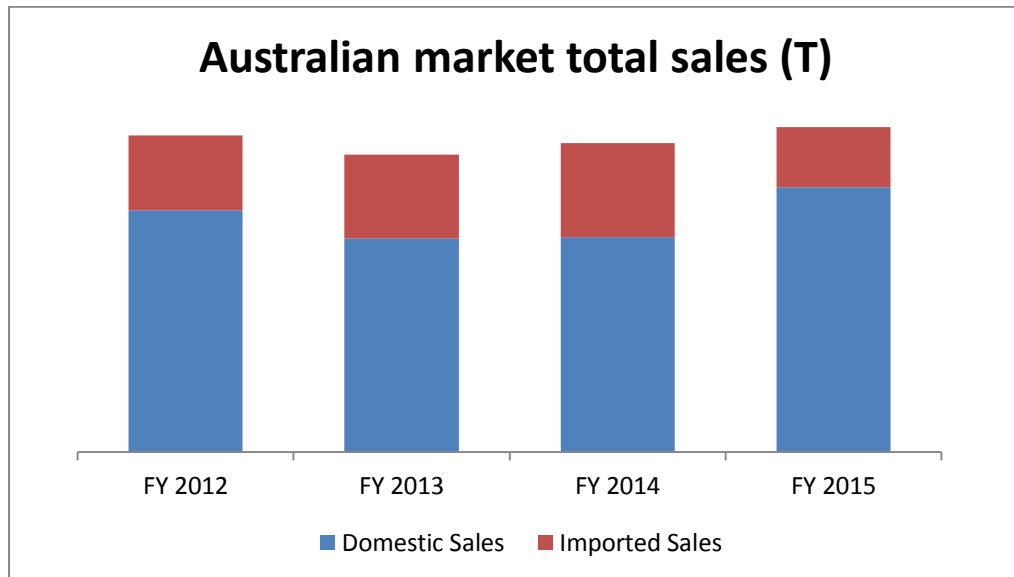


Figure 1: Australian market for rod in coils (tonnes)

The Commission compared the estimated import volumes in the application to the data contained in the ABF import database and observed slight variances in OneSteel's estimates of the volumes of imported goods. The Commission considered these variances to be negligible.

The Commission considers that the information submitted by OneSteel is reliable, relevant and suitable for estimating the size of the Australian market for rod in coils. The Commission's detailed assessment of the Australian market for rod in coils is at **Confidential Appendix 1**.

## 5 REASONABLE GROUNDS - SUBSIDISATION

### 5.1 Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the claims that:

- the goods exported to Australia from China have been subsidised;
- the estimated subsidy margin for exports from China is greater than 2% and therefore is not negligible; and
- the estimated volume of goods from China that appear to have been subsidised is greater than 4% of the total Australian import volume of goods and therefore is not negligible.

### 5.2 Legislative framework

Subsection 269TC(1) of the Act requires that the Commissioner reject an application for a countervailing duty notice if, *inter alia*, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a countervailing duty notice.

Under section 269TJ of the Act, one of the matters that the Parliamentary Secretary must be satisfied of in order to publish a countervailing duty notice is that subsidisation has taken place (to an extent that is not negligible (s 269TDA refers)). This issue is considered in the following sub-sections of this report.

### 5.3 Consultation with the Government of China

In accordance with subsection 269TB(2C), the Commission invited the Government of China (GOC) for consultations during the consideration phase. The Commission provided the GOC with a non-confidential version of the application and relevant non-confidential attachments.

The purpose of the consultations was to provide an opportunity for the GOC to respond to the claims made in the application in relation to countervailable subsidies, including whether the subsidies exist and, if so, whether the subsidies are causing, or are likely to cause, material injury to an Australian industry. The consultations have the aim of arriving at a mutually agreed solution.

The GOC accepted the Commission's invitation and on 16 February 2016, the Commission held a teleconference with the GOC where the GOC made the following comments regarding the application:

- the GOC stated that the program of billet provided by the government at less than adequate remuneration does not exist;
- the GOC stated that many of the alleged financial grants and tax related programs in the application are not relevant to the investigation because they are local and/or provincial level programs in locations where none of the suppliers of the goods under consideration are located;
- the GOC disagrees with the applicant's claim that loans provided by the state owned banks are countervailable subsidies because the GOC believes that the state owned banks are not public bodies; and

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- the GOC stated that based on PAD 301 published by the Commission on 1 December 2015, the Chinese imports account for only 6% of the applicant's share of Australian market during the investigation period, therefore, the GOC is of the view that it is not possible for such a small volume of Chinese imports to materially injure the Australian industry producing like goods.

A public record version of the GOC's written comments are available on the Commission's website.

The Commission notes the GOC's comments and will consider the issues raised during the course of the investigation.

### 5.4 Subsidy programs

#### 5.4.1 Legislative framework

A countervailable subsidy is determined in accordance with subsection 269T(1), subsection 269T(2AA), section 269TACC and section 269TAAC of the Act.

#### 5.4.2 The Applicant's claims

The applicant claims that there are 62 countervailable subsidy programs that benefit Chinese producers of rod in coils. Details of these programs are contained at Non-Confidential Attachment C-1 to the application.

The table below summarises the programs claimed by the applicant to be countervailable subsidies in relation to rod in coils in China.

Category	Program (number and description)	Summary of claims
Provision of goods (Programs 1-4)	1. Billet provided by the Government of China at less than adequate remuneration	<p>The applicant claims that:</p> <ul style="list-style-type: none"> <li>Substantial GOC ownership stakes in Chinese companies that provide key inputs to the production of rod in coils result in countervailable subsidies for rod in coils in the form of the provision of goods or services;</li> <li>State invested enterprises (SIEs), companies in which the GOC holds equity, are public bodies, i.e. the SIEs are vested with government authority;</li> <li>The steel industry is favoured by the GOC and prices for the goods identified in these programs are provided to producers of steel products such as rod in coils at</li> </ul>
	2. Coking coal provided by the Government of China at less than adequate remuneration	
	3. Coke provided by the Government of China at less than adequate remuneration	
	4. Electricity provided by the Government of China at less than adequate remuneration	

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Category	Program (number and description)	Summary of claims
		<p>reduced prices; and</p> <ul style="list-style-type: none"> <li>• The benefit conferred on Chinese suppliers of rod in coils is the difference between the actual purchase price of these inputs and a price that would reflect adequate remuneration.</li> </ul> <p>The applicant notes that two of these inputs, coke and coking coal, have previously formed the basis for findings by the Commission of countervailable subsidies of steel products manufactured in China.</p>
Preferential tax policies (Programs 5-9)	5. Preferential Tax Policies for High and New Technology Enterprises	<p>The applicant claims that:</p> <ul style="list-style-type: none"> <li>• A number of programs provide for preferential tax treatment of Chinese companies that produce rod in coils. The applicant claims that these constitute countervailable subsidies for rod in coils in the form of foregoing or non-collection of revenue due to the relevant government body; and</li> <li>• The benefit conferred on Chinese suppliers of rod in coils is the tax revenue forgone apportioned to each unit of the goods.</li> </ul> <p>The applicant notes that all of these programs have previously formed the basis for findings by the Commission of countervailable subsidies of products manufactured in China, most recently in REP 237 in respect of silicon metal. One of the programs (which the applicant records as two programs because of two separate claimed effects) has been the subject of GOC subsidy notification to the WTO.</p>
	6. Preferential Tax Policies in the Western Regions	
	7. Land Use Tax Deduction	
	8. Tariff and VAT Exemptions on Imported Materials and Equipment	
	9. VAT refund on comprehensive utilisation of resources	
Financial grants (Programs 10-42)	10. One-time Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” and “Famous Brands of China”;	<p>The applicant claims that:</p> <ul style="list-style-type: none"> <li>• 33 programs potentially provide for financial grants to Chinese companies that produce rod in coils. The applicant claims that these</li> </ul>

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Category	Program (number and description)	Summary of claims
	11. Matching Funds for International Market Development for small and medium size enterprises (SMEs)	<p>constitute countervailable subsidies for rod in coils in the form of cash grants; and</p> <ul style="list-style-type: none"> <li>The benefit conferred on Chinese suppliers of rod in coils is the extent to which funds are provided to those suppliers.</li> </ul> <p>The applicant notes that all of these programs have previously formed the basis for findings by the Commission of countervailable subsidies of products manufactured in China. Four of these programs were most recently found to be countervailable subsidies in REP 198, the remainder in REP 237.</p>
	12. Superstar Enterprise Grant	
	13. Research and Development (R&D) Assistance Grant	
	14. Patent Award of Guangdong Province	
	15. Innovative Experimental Enterprise Grant	
	16. Special Support Fund for Non-State-Owned Enterprises	
	17. Venture Investment Fund of Hi-Tech Industry	
	18. Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	
	19. Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan	
	20. Water Conservancy Fund Deduction	
	21. Wuxing District Freight Assistance	
	22. Huzhou City Public Listing Grant	
	23. Huzhou City Quality Award	
	24. Huzhou Industry Enterprise Transformation & Upgrade Development Fund	
	25. Wuxing District Public List Grant	
	26. Anti-dumping	

**PUBLIC RECORD**

Category	Program (number and description)	Summary of claims
	Respondent Assistance	
	27. Technology Project Assistance	
	28. Transformation technique grant for rolling machine	
	29. Grant for Industrial enterprise energy management - centre construction demonstration project Year 2009	
	30. Key industry revitalization infrastructure spending in 2010	
	31. Provincial emerging industry and key industry development special fund	
	32. Environmental protection grant	
	33. Environmental protection fund	
	34. Intellectual property licensing	
	35. Financial resources construction - special fund	
	36. Reducing pollution discharging and environment improvement assessment award	
	37. Grant for elimination of out dated capacity	
	38. Grant from Technology Bureau	
	39. High and New technology Enterprise Grant	
	40. Independent Innovation and High Tech Industrialization Program	
	41. Environmental Prize	
	42. Jinzhou District Research and Development Assistance Program	

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Category	Program (number and description)	Summary of claims
Equity programs (Programs 43-45)	43. Debt for equity swaps	<p>The applicant claims that three equity related programs constitute countervailable subsidies for Chinese rod in coils suppliers.</p> <p>The applicant notes that all of these programs have previously formed the basis for findings by the Canada Border Services of countervailable subsidies of rod in coils manufactured in China and for findings by the European Commission of countervailable subsidies of organic coated steel manufactured in China.</p>
	44. Equity infusions	
	45. Unpaid dividends	
Preferential loans and interest rates to producers / exporters of rod in coils (Program 46)	46. Preferential loans and interest rates	<p>The applicant claims that preferential loans and interest rates to rod in coils suppliers constitute countervailable subsidies for those suppliers.</p> <p>The applicant notes that the banking market in China is dominated by state owned banks. The European Commission has previously stated that state owned banks in China should be considered public bodies and in 2013 found that the preferential loans and interest rates provided to steel industry participants should be considered a countervailable subsidy.</p>
Miscellaneous programs disclosed in the annual report of Hunan Valin Xiangtan Iron and Steel Co., Ltd (Programs 47-55)	47-55 Miscellaneous programs	<p>The applicant claims that there are a number of subsidies that were in fact paid to at least one rod in coils supplier.</p> <p>The applicant has provided the 2014 annual report for Hunan Valin Xiangtan Iron and Steel Co., Ltd .The annual report lists a number of government programs that the company has drawn on.</p>
Miscellaneous programs disclosed in the annual report of Jiangsu	56-62 Miscellaneous programs	<p>The applicant claims that there are a number of subsidies that were in fact paid to at least one rod in coils supplier.</p> <p>The applicant has provided the 2014 annual report for Jiangsu Shagang Group Co., Ltd. The annual report lists a</p>

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Category	Program (number and description)	Summary of claims
Shagang Group Co., Ltd (Programs 56-62)		number of government programs that the company has drawn on.

**5.4.3 The Commission's assessment**

The table below summarises the Commission’s assessment of claims by the applicant.

*Availability of information on Chinese subsidy programs*

The Commission considers that the Australian industry is likely to face challenges in obtaining information regarding subsidy programs in China. In this respect, the Commission notes advice provided by the Australian Government’s Department of Foreign Affairs and Trade during Investigation 238 (INV 238) that China had failed to comply with its notification obligations under Article 25 of the Agreement on Subsidies and Countervailing Measures.<sup>15</sup>

*Have exporters in fact received the identified subsidies?*

The Commission notes that, until the investigation is undertaken, it will not be clear whether a given exporter of rod in coils has in fact received any of the subsidies under the programs identified. For the purposes of this consideration report, the Commission considers the identified programs are in accordance with subsection 269TC(1)(c), that is, whether there appear to be reasonable grounds that the identified programs are countervailable subsidies.

Category	The Commission’s assessment
Provision of goods (Programs 1 – 4)	<p><i>Previous findings for provision of goods</i></p> <p>The Commission accepts that two of the upstream raw material inputs for rod in coils, coke and coking coal, have previously formed the basis for findings by the Commission of countervailable subsidies of steel products manufactured in China, namely findings of countervailable subsidies of Chinese hot rolled plate steel in Investigation 198. Given that coke and coking coal are important required inputs for steel products generally, including hot rolled plate steel and rod in coils, there appear to be reasonable grounds to be satisfied that the provision of coke and coking coal to rod in coils suppliers at less than adequate remuneration amounts to countervailable subsidies.<sup>16</sup></p> <p>The Commission also notes its previous finding (REP 237 refers) and that of the European Commission<sup>17</sup> that electricity provided for less</p>

<sup>15</sup> Anti-Dumping Commission Final Report 238, p. 79 refers.

<sup>16</sup> Subsections 269TC(1) and 269TACD(3).

<sup>17</sup> Council Implementing Regulation (EU) No 215 / 2013 of 11 March 2013 imposing a countervailing duty on imports of certain organic coated steel products originating in the People’s Republic of China at section 3.3.1.4.



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<b>Category</b>	<b>The Commission's assessment</b>
	<p>than adequate remuneration was considered to be a countervailable subsidy. The goods in those previous findings were not fully akin to rod in coils, however, given the official favoured status bestowed on the steel industry by the GOC and the differential prices for electricity imposed by the GOC there appear to be reasonable grounds to be satisfied that the provision of electricity to rod in coils suppliers at less than adequate remuneration is a countervailable subsidy.<sup>18</sup></p> <p><i>Provision of billet at less than adequate remuneration</i></p> <p>The Commission has not previously made a finding regarding the provision of billet at less than adequate remuneration, nor is it aware that such a finding has been made by any other anti-dumping authority. The Commission notes the following concerning the applicant's arguments regarding the provision of billet at less than adequate remuneration:</p> <ul style="list-style-type: none"> <li>• The Chinese companies referred to by the applicant are vertically integrated in producing billet that is then used to produce rod in coils. However to the extent that not all Chinese producers of rod in coils are vertically integrated, the provision of billet at less than adequate remuneration from SIE producers of billet may be a countervailable subsidy; and</li> <li>• The applicant has cited the WTO Appellate Body Report in <i>United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India</i> (DS436) in support of its reasoning that Chinese billet suppliers are public bodies (see the definition of 'subsidy' at section 269T) because the GOC exercises meaningful control over them. However the Appellate Body in DS436 had overturned a decision by the WTO Panel that relied too heavily on the 'meaningful control' indicia as one of three indicia to be considered in assessing whether an entity possesses, exercises or is vested with governmental authority (DS436 at paragraph 4.36).</li> </ul> <p>During the course of the investigation, the Commission will consider whether the supply of billet at less than adequate remuneration is a countervailable subsidy.</p> <p><i>Appear to be reasonable grounds</i></p> <p>Accordingly the Commission accepts that, at least for coke, coking coal and electricity, there is a sufficient basis for the Commissioner to be satisfied, having regard to the matters in the application and to other relevant information that there appear to be reasonable grounds that the programs for provision of goods described by the applicant are countervailable subsidies.<sup>19</sup></p>

<sup>18</sup> Subsections 269TC(1) and 269TACD(3).

<sup>19</sup> Subsection 269TC(1).

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Category	The Commission's assessment
	<p>Programs for provision of billet at less than adequate remuneration may only be applicable to rod in coils producers that purchase billet, not integrated producers of billet and rod in coils. However, in SEF 301, having found that 'a particular market situations' exists in the rod in coils market in China, the Commission replaced the costs of billets for both integrated and non-integrated producers to calculate a normal value under s269TAC(2)(c).</p> <p>Programs 1 to 4 are also currently being investigated by the Commission regarding steel reinforcing bar exported from China (INV 322 refers) which has the same upstream raw materials as rod in coils.</p>
<p>Preferential tax policies (Programs 5-9)</p>	<p><i>Previous findings, notifications for preferential tax policies</i></p> <p>The applicant points to a number of programs that it claims provide for preferential tax treatment to Chinese companies that produce rod in coils. The Commission found in a previous countervailing subsidy investigation (Anti-Dumping Commission Report 237 refers)<sup>20</sup> that all of these programs constitute countervailable subsidies for rod in coils in the form of foregoing or non-collection of revenue due to the relevant government body.</p> <p>Programs 5 and 6 appear to have been recently notified by the GOC under Article XVI:1 of the GATT and Article 25:2 of the SCM Agreement.<sup>21</sup></p> <p><i>Appear to be reasonable grounds</i></p> <p>Accordingly the Commission accepts that there is a sufficient basis for the Commissioner to be satisfied that there appear to be reasonable grounds that the tax policies described by the applicant are countervailable subsidies.</p> <p>Programs 5 to 9 are currently being investigated by the Commission regarding steel reinforcing bar (INV 322 refers) which has the same tax policies as rod in coils.</p>
<p>Financial grants (Programs 10-42)</p>	<p><i>Previous findings for financial grants</i></p> <p>All of the financial grants programs claimed by the applicant to be countervailable subsidy programs have previously been found to be countervailable subsidies by the Commission (Anti-Dumping Commission Report 198 and Anti-Dumping Commission Report 237 refer).<sup>22</sup></p>

<sup>20</sup> The goods considered in Anti-Dumping Commission Report 237 were silicon metal, not rod in coils. However the production of silicon metal, like rod in coils, falls broadly within the steel industry and therefore the possibility that the programs identified in REP 237 may also apply to rod in coils cannot be dismissed without further investigation.

<sup>21</sup> Document reference G/SCM/N/220/CHN, G/SCM/N/253/CHN, G/SCM/N/284/CHN, 27 October 2015 at pages 11 and 17.

<sup>22</sup> The goods considered in Anti-Dumping Commission Report 198, hot rolled plate steel and Anti-Dumping Commission Report 237, silicon metal, fall within the steel industry.

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<b>Category</b>	<b>The Commission's assessment</b>
	<p><i>Appear to be reasonable grounds</i></p> <p>Based on the above, the Commission accepts that there is a sufficient basis for the Commissioner to be satisfied, having regard to the matters in the application and to other relevant information that there appear to be reasonable grounds that the financial grants described by the applicant are countervailable subsidies that are available to Chinese producers of the rod in coils.</p> <p>Programs 10 to 42 are also currently investigated by the Commission regarding steel reinforcing bar (INV 322 refers) which has the same financial grants as rod in coils.</p>
Equity programs (Programs 43-45)	<p><i>Previous findings for equity programs</i></p> <p>The equity related programs claimed by the applicant to be countervailable subsidy programs have previously been considered by the European Commission (EC).<sup>23</sup> In that case the GOC provided little cooperation to the EC and the EC was forced to rely in large part on information provided in the application. On that basis the EC found those equity programs to be countervailable subsidies.</p> <p><i>Appear to be reasonable grounds</i></p> <p>As noted above, the Commission considers that the Australian industry faces challenges in obtaining information regarding subsidy programs in China. However, for purposes of consideration of the application under subsection 269TC(1) the applicant is only required to show that there appear to be reasonable grounds for the publication of a countervailing duty notice.</p> <p>Based on above information, the Commission is satisfied that there appear to be reasonable grounds that the equity programs described by the applicant are countervailable subsidies. These programs will be subject to further investigation so far as they may apply to rod in coils.</p> <p>Programs 43 to 45 are currently being investigated by the Commission regarding steel reinforcing bar (INV 322 refers) which has the same equity programs as rod in coils.</p>
Preferential loans and interest rates to producers/exporters of rod in coils (Program 46)	<p><i>Previous findings for preferential loans and interest rates</i></p> <p>The preferential loan and interest rate program claimed by the applicant to be a countervailable subsidy program was previously considered by the EC.<sup>24</sup> In that case the GOC provided little cooperation to the EC and the EC was forced to rely on secondary information including information provided in the application. On that basis the EC found preferential loans and interest rates to be</p>

<sup>23</sup> Council Implementing Regulation (EU) No 215 / 2013 of 11 March 2013 imposing a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China at section 3.3.3.

<sup>24</sup> Council Implementing Regulation (EU) No 215 / 2013 of 11 March 2013 imposing a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China at section 3.3.2.

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<b>Category</b>	<b>The Commission's assessment</b>
	<p>countervailable subsidies.</p> <p><i>Appear to be reasonable grounds</i></p> <p>As noted above, the Commission considers that the Australian industry faces challenges in obtaining information regarding subsidy programs in China.</p> <p>Pursuant to s269TC(1), the Commission accepts that there is sufficient available information to be satisfied that there appear to be reasonable grounds that loans and interest rates described by the applicant are countervailable subsidies. This program will be subject to further scrutiny so far as they may apply to rod in coils during the course of the investigation.</p> <p>Program 46 is also being currently investigated by the Commission regarding steel reinforcing bar (INV 322 refers) which has the same preferential loans and interest benefits as rod in coils.</p>
<p>Miscellaneous programs disclosed in the annual report of Hunan Valin Xiangtan Iron and Steel Co., Ltd</p>	<p><i>Subsidies actually received</i></p> <p>The applicant provided a list of programs from the 2014 annual report of Hunan Valin Xiangtan Iron and Steel Co., Ltd. The programs are listed along with amounts that the company states to have received under the programs.</p> <p>Neither the application nor the company report provide any detail of these programs, however the Commission notes the following:</p> <ul style="list-style-type: none"> <li>• Some program names appear to indicate that the program may be a countervailable subsidy.</li> <li>• The miscellaneous programs all appear to be sums that the company has in fact received from some level of government assistance. This is a significant part of the factual matrix that is often unknown, at the commencement of an investigation. If, on further investigation, one or more of the programs meet the description of a countervailable subsidy set out in the legislation then it is clear that the company has received those subsidies.</li> <li>• If the Commission becomes satisfied that the company has listed all of the government grants it has received then the miscellaneous programs may serve as a cross check to confirm or counter claims of subsidies provided.</li> </ul> <p><i>Appear to be reasonable grounds</i></p> <p>Accordingly the Commission accepts that there appears to be reasonable grounds that the miscellaneous programs identified by the applicant are countervailable subsidies.</p>

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<b>Category</b>	<b>The Commission's assessment</b>
<p>Miscellaneous programs disclosed in the annual report of Jiangsu Shagang Group Co., Ltd.</p>	<p><i>Subsidies actually received</i></p> <p>The applicant provided a list of programs from the 2014 annual report of Jiangsu Shagang Group Co., Ltd. The programs are listed along with amounts that the company states to have received under the programs.</p> <p>Neither the application nor the company report provide any detail of these programs however the Commission notes the following:</p> <ul style="list-style-type: none"> <li>• Some program names appear to indicate that the program may be a countervailable subsidy.</li> <li>• The miscellaneous programs all appear to be sums that the company has in fact received from some level of government assistance. This is a significant part of the factual matrix that is often unknown, at least at this stage of an investigation. If, on further investigation, one or more of the programs meet the description of a countervailable subsidy set out in the legislation then it is clear that the company has received the subsidies.</li> <li>• If the Commission becomes satisfied that the company has listed all of the government grants it has received then the miscellaneous programs may serve as a cross check to confirm or counter claims of subsidies provided.</li> </ul> <p><i>Appear to be reasonable grounds</i></p> <p>Accordingly the Commission accepts that there appears to be reasonable grounds that the miscellaneous programs identified by the applicant are countervailable subsidies.</p>

**5.5 Amount of countervailable subsidy**

**5.5.1 Legislative framework**

Subsidy margins are determined under section 269TACD of the Act.

The amount of the countervailable subsidisation and the volume of subsidised goods cannot be negligible. Whether the countervailable subsidisation and the volume of subsidised goods are negligible is assessed under section 269TDA of the Act.

**5.5.2 The Commission's assessment**

The Commission is satisfied following preliminary analysis of:

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- the amount of the benefits received under countervailable subsidies investigated in previous steel case investigations that have same upstream raw materials input as rod in coils, conducted by the Commission<sup>25</sup>; and
- the verified weighted average export prices of rod in coils from China obtained during the verification visit to two major Chinese exporters in INV 301,

that the benefit received by Chinese exporters under the programs found to warrant an investigation is likely to result in subsidy margins that are above negligible levels.

The Commission is satisfied that the subsidy margin and volume of subsidised goods are above negligible levels, taking into account that China is considered a developing country in accordance with Part 4, Division 1 of Schedule 1 of the *Customs Tariff Act 1995*.

The Commission's assessment of the subsidy margin is at **Confidential Appendix 2**.

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<sup>25</sup> Programs 2, 3 and 4 were chosen to estimate the subsidy margin as they have been previously found by the Commission to be countervailable. The applicant was able to provide a subsidy value for these programs, enabling the estimation of the margin.

## 6 REASONABLE GROUNDS – ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

### 6.1 Findings

For the purposes of this section, the Commission will assess the economic condition of the Australian industry together with the dumping investigation INV 301. This is because the Commission considers that the preliminary assessment of the economic conditions contained in SEF 301 can also be relevant to this current subsidy case because the injury effects and the economic circumstances of the industry relate to the same goods and investigation period.

Pursuant to subsection 269TC(1)(c), having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury in the form of:

- price depression;
- price suppression;
- lost opportunity to increase sales volumes;
- lost opportunity to increase market share; and
- reduced profits and profitability;

The Commission considers that these indirectly impacted on the following forms of injury due to reduction in revenues leading to adjustments to production plans and staffing levels:

- reduced return on investment;
- reduced employee numbers; and
- reduced capacity utilisation rates.

The Commission also considers that these indirect considerations are indicative that material injury was collectively caused by sale of rod in coils exported to Australia from China at dumped and subsidised prices.

### 6.2 Legislative framework

Subsection 269TC(1) of the Act requires that the Commissioner reject an application for a countervailing duty notice if, *inter alia*, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a countervailing duty notice.

Under section 269TJ of the Act, one of the matters that the Minister must be satisfied of in order to publish a countervailing duty notice is that the Australian industry has experienced material injury. This issue is considered in the following sections of the report.

### 6.3 The Applicant's claims

The Applicant claims that it has experienced material injury in the form of:

- price depression;
- price suppression;
- price undercutting;

- lost market share;
- lost sales volume;
- loss of revenue;
- loss of profits;
- loss of profitability;
- loss of employment;
- loss of capacity to produce the like goods; and
- loss of assets employed in the production of the like goods.

## **6.4 Approach to injury analysis**

### **6.4.1 Legislative framework**

The matters that may be considered in determining whether the industry has suffered material injury are set out in section 269 TAE of the Act.

### **6.4.2 Evidence provided by the Australian industry**

OneSteel provided production, cost and sales data for rod in coils on a quarterly basis for financial years between 1 July 2011 to 30 June 2015, and for the first three months of financial year 2016 (from July to September 2015). OneSteel also provided evidence of market pricing for July 2013 to December 2015 in the form of price offers.

OneSteel stated that since 1 July 2011, it made sales of rod in coils to both third party customers (external) and to OneSteel's own trading division (internal). OneSteel's internal sales accounted for a significant proportion of its total sales. OneSteel exports a small volume of rod in coils. The analysis, unless otherwise stated, refers to domestic sales and production.

### **6.4.3 The Commission's approach**

The following injury analysis is based on:

- OneSteel's submitted costs, sales and other financial data; and
- ABF import data.

For the purposes of assessing injury experienced by the Australian industry, the Commission has used data related to OneSteel's external and internal sales of rod in coils. Subsequent to the initiation of INV 301, the Commission verified the data provided by Onesteel and found that for the related customers, OneSteel uses a different pricing methodology. The Commission examined the methodology utilised and found that it ensures a market competitive price for the related customers<sup>26</sup>.

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<sup>26</sup> Page 17 of PAD 301 refers



#### **6.4.4 Commencement of injury**

In its application, OneSteel alleges that the Australian industry has suffered material injury caused by rod in coils exported to Australia from China at dumped and subsidised prices. OneSteel contends that this material injury commenced in or around May 2014.

OneSteel provided importation pattern analysis in support of its claim that exports from China of rod in coils did not begin to enter the Australian market in any significant volumes until shortly after the initiation of the previous dumping Investigation INV 240 during April 2014.

For the purposes of the injury analysis, the Commission has analysed OneSteel's injury claims from 1 July 2011 to 30 June 2015 ('the injury analysis period')<sup>27</sup>.

### **6.5 Volume effects**

#### **6.5.1 Sales volume**

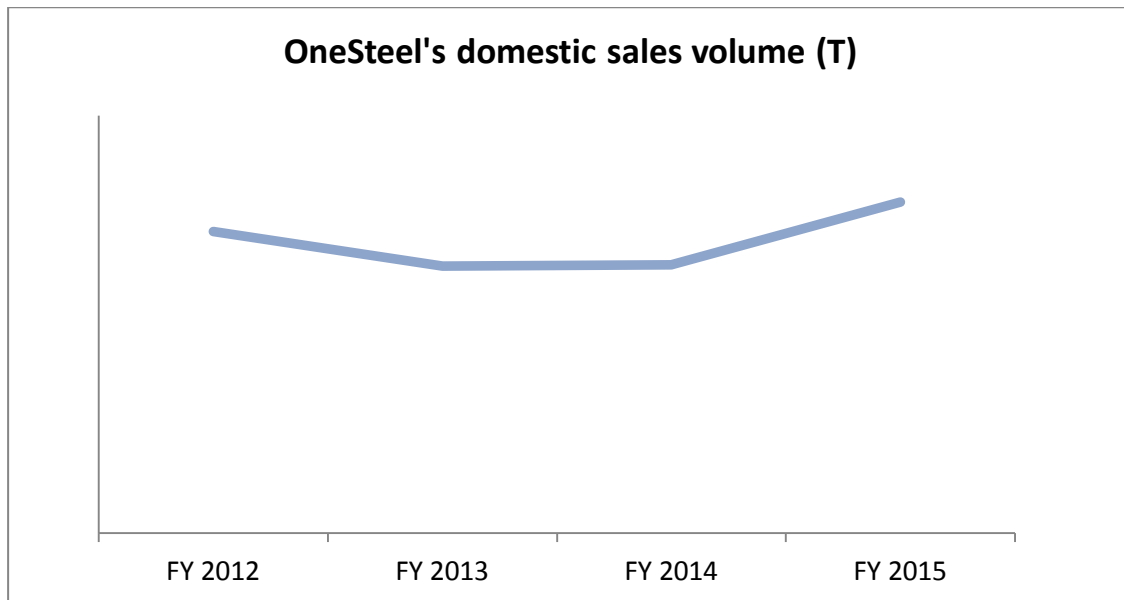
For the purposes of assessing volume effects, specifically in relation to OneSteel's sales, the Commission has separated its analysis of sales volume below into:

- lost volume, so as to provide a platform for a macro analysis; and
- lost sales, so as to allow for a micro analysis.

#### Lost volume

In its application, OneSteel submitted that it has experienced lost sales volume due to the growth in the volume of dumped and subsidised imports of rod in coils from China.

Figure 2 below illustrates the volume of OneSteel's sales for rod in coils over the injury analysis period.



<sup>27</sup> Any references to financial years are for the period 1 July to 30 June

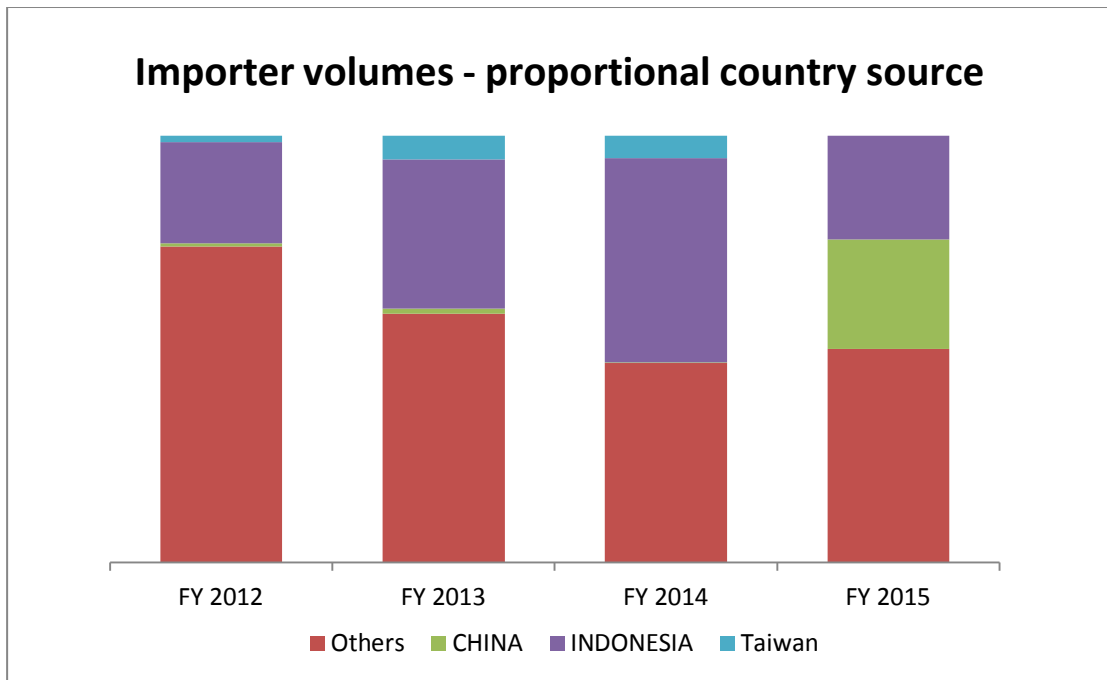
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**Figure 2: OneSteel’s domestic sales volume of rod in coils**

The Commission observes in the above figure that after a drop in sales volume in the FY 2013 period, OneSteel sales volumes of rod in coils has notably increased in the FY 2015 period to similar levels achieved in FY 2012.

Lost sales

Despite the growth in sales volume, OneSteel contends that it has lost sales in FY 2015 as a result of the allegedly dumped and subsidised imports from China. Figure 3 depicts the change in the source of supply for importers who previously imported rod in coils from exporters that are now subject to measures, over the injury analysis period.

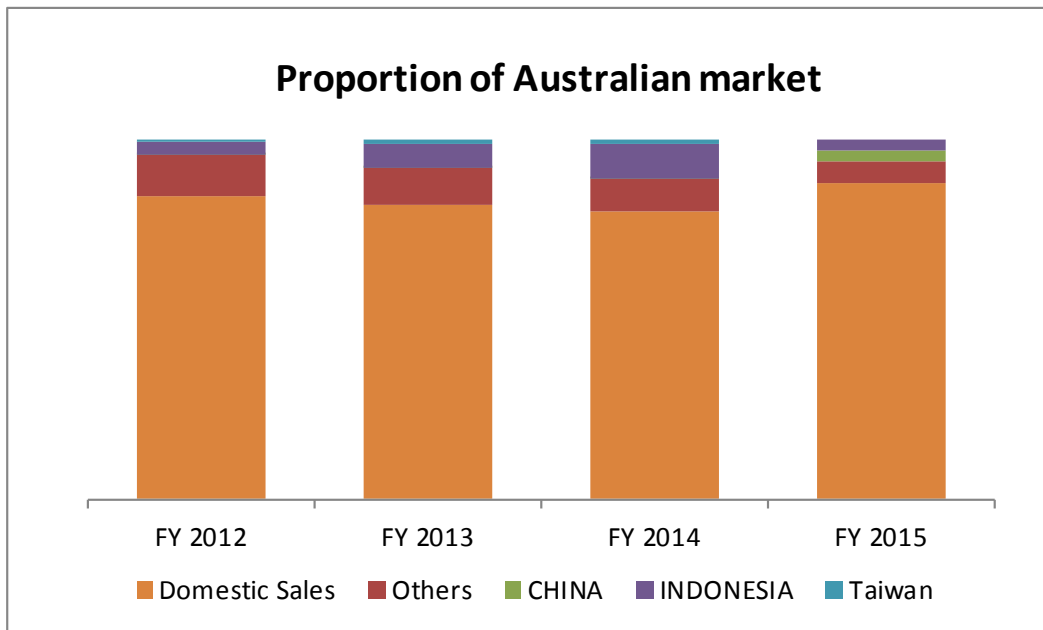


**Figure 3: Importers’ source of rod in coils if previously sourced from the nominated exporters in INV 240.**

The above figure suggests that once the previous Investigation 240 was initiated in late FY 2014, the source of imports shifted significantly to China.

**6.5.2 Market share**

OneSteel submitted that it has lost the opportunity to increase its market share across the proposed investigation period but for the massive growth in the volume of alleged dumped and subsidised imports from China. Figure 4 below, depicts the yearly market shares for the injury analysis period. The market shares are split into Australian industry, imports from China, imports from other minor sources combined and imports that are subject to measures as a result of the previous Investigation 240 and all other imports.



**Figure 4: Proportion of the Australian rod in coils market, annual basis**

From figure 4 above, the Commission notes that the relative proportional change in the rod in coils market in Australia from FY 2012 to FY 2015 as summarised as follows:

- Imports from China grew significantly (by 2,600%);
- imports with measures after INV 240 fell by 23%;
- imports without measures fell by 46%;
- total imports to Australia fell by 21%; and
- OneSteel’s market share grew by approximately 3%.

**6.5.3 Conclusion – volume effects**

The Commission notes that the Australian industry has claimed that it was unable to increase its volume of sales as it would have otherwise expected, resulting in a stable market share proportion.

Based on the available information, the Commission has concluded that OneSteel has not demonstrated lost sales volume and reduced market share. These claims will be further analysed during the course of the investigation.

There does, however, appear to be reasonable grounds to support Onesteel’s claim that the Australian industry has lost the opportunity to gain the sales volume as a result of the anti-dumping measures imposed after INV 240 findings but for the dumped and subsidised imports from China.

The Commission’s detailed assessment of the Australian industry’s sales volume and market share are contained in **Confidential Appendix 3**.

## 6.6 Price effects

### 6.6.1 Price depression and price suppression

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

Figure 5 below shows the movements in weighted average net (per tonne) unit prices obtained by OneSteel over the injury analysis period. It illustrates the relationship between OneSteel's unit cost to make and sell and unit selling prices for its rod in coils.

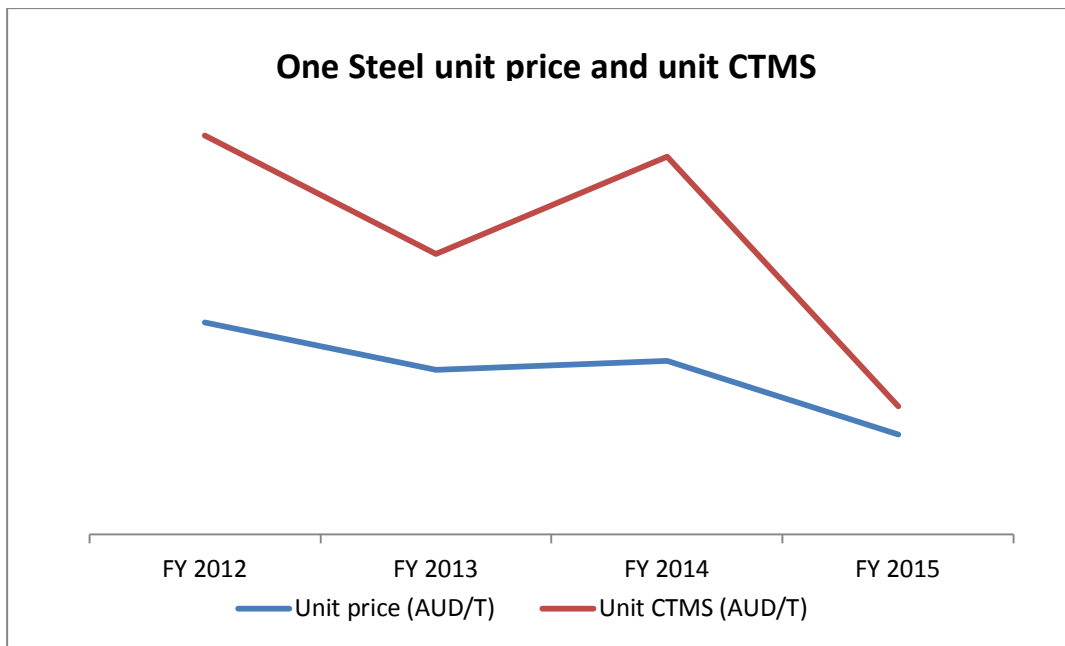


Figure 5: OneSteel's unit selling price and unit cost to make and sell

Figure 5 shows that OneSteel's unit cost to make and sell exceeded its unit selling prices from FY 2012 to FY 2015. The Commission noted that the amount by which costs exceeded prices was relatively constant although the difference narrowed in FY 2015. The unit selling price declined slightly over the injury analysis period, supporting OneSteel's claim of price depression.

Figure 5 also shows that the unit cost to make and sell declines notably in FY 2015, which OneSteel has claimed is largely due to the decrease in the cost to make from producing higher volumes of rod in coils.

OneSteel claims that the initiation of INV 240 in April 2014 resulted in the industry regaining lost volume. However, as the volume of allegedly dumped and subsidised imports from China increased in the July to September 2014 period, OneSteel began to experience a decline in sales volumes. OneSteel submits that in response, it reduced its selling prices, which had the effect of recovering some volume in April to June 2015.

Figure 6 shows the quarterly sales volumes and unit sales price for the FY 2015.

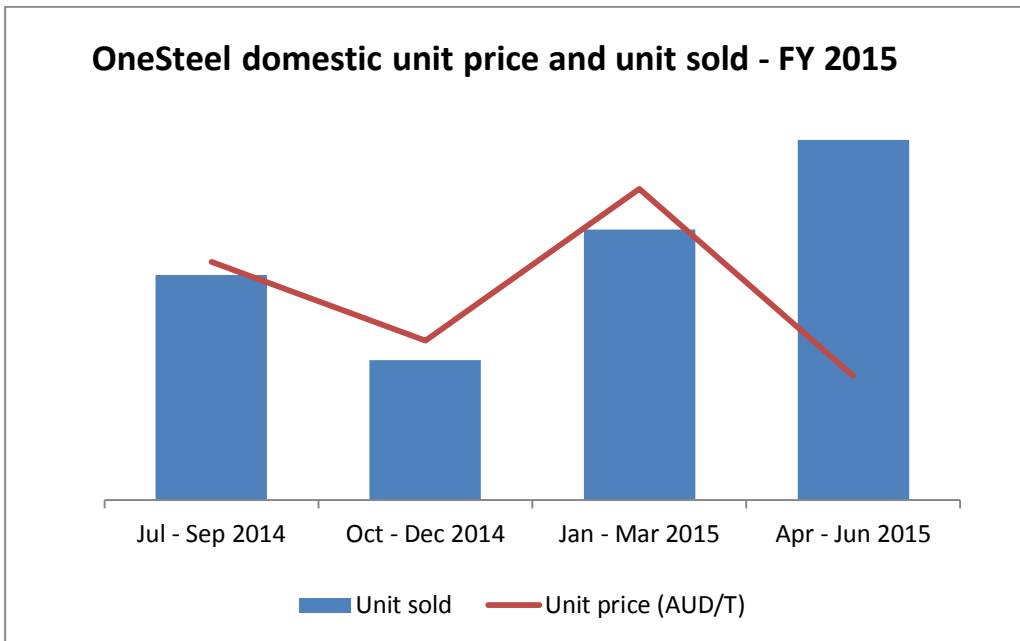


Figure 6: Domestic unit sale price per tonne and domestic units sold

Figure 6 above shows that OneSteel reduced its sale price to a low in October to December 2014 which coincided with the lowest sales for that period. April to June 2015 shows the recovery in sales which appears to support OneSteel’s claim that this may have resulted from the reduced selling prices.

Over the entire injury analysis period, sales volumes appear to have recovered back to the levels in FY 2012, while the sales price is on a steady decline, barring a brief spike in January to March 2015 as illustrated in figure7 below.

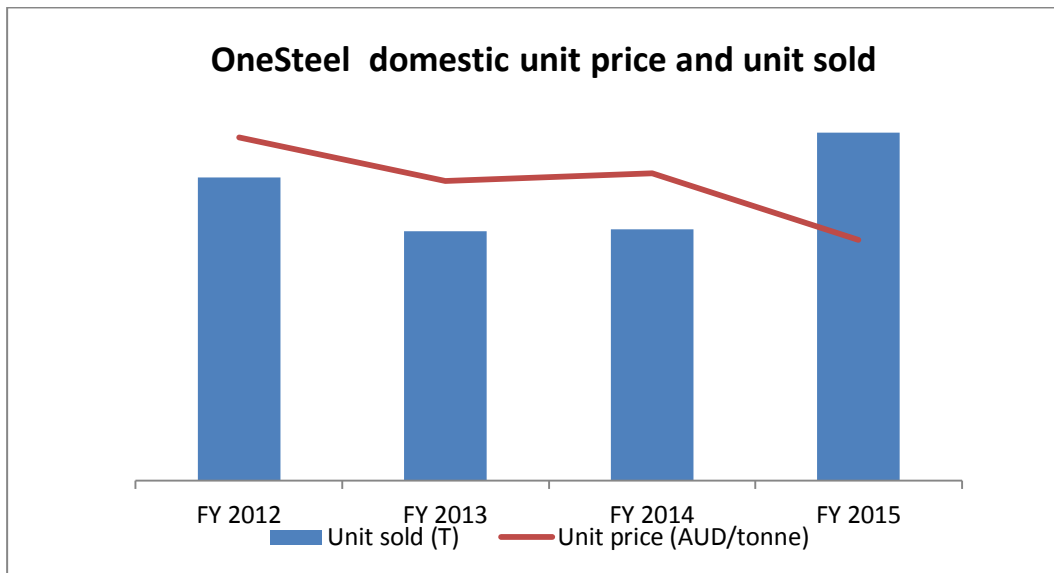


Figure 7: Domestic unit sale price and units sold for injury analysis period

The above figure supports OneSteel’s claim that in order to regain production volumes back to FY 2012 levels, OneSteel reduced its unit selling prices.

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The Commission’s assessment of the Australian industry’s price effects are contained in **Confidential Appendix 4**.

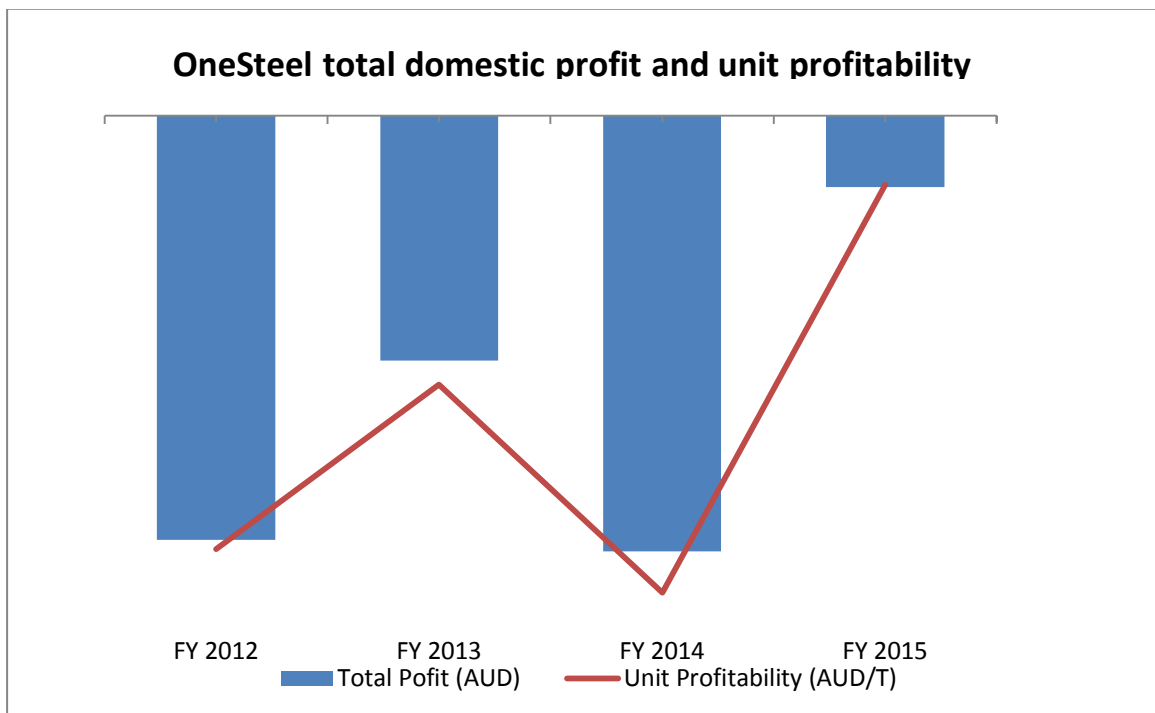
**6.6.2 Conclusion – price effects**

Based on this analysis, there appear to be reasonable grounds to support Australian industry’s claim that it has suffered injury in the form of price depression and price suppression.

**6.7 Profit and profitability effects**

OneSteel contends that it has experienced an improvement in profit and profitability; however sales of rod in coils remain unprofitable.

Figure 8 below, shows the relationship between OneSteel’s per unit sales revenue and per unit profit over the injury analysis period.



**Figure 8: OneSteel’s domestic profit and unit profitability**

Figure 8 shows that OneSteel has experienced its least unprofitable financial year in 2015, when considering the full injury analysis period.

In its application, OneSteel submitted that notwithstanding any improvement in its fixed unit costs, it could have further reduced its fixed unit costs and further improved the profit and profitability of sales of like goods if not for the loss of sales volume to the dumped and subsidised goods exported from China.

The Commission’s assessment of the Australian industry’s profit and profitability effects are contained in **Confidential Appendix 4**.

### **6.7.1 Conclusion – profit and profitability effects**

Based on this analysis, there appear to be reasonable grounds to support the claim that the Australian industry suffered injury in the form of a lost opportunity to further reduced its profits and profitability.

The Commission accepts that OneSteel has experienced an improving profit and profitability position, however it is of the view that this improvement has been facilitated by reducing its costs to make and sell. Furthermore, as there are reasonable grounds to support the claim that OneSteel has suffered injury in the form of price depression and price suppression, it may have had the opportunity to further improve its overall profit and profitability position but for the dumped and subsidised exports from China.

### **6.8 Other injury factors**

OneSteel completed Confidential Appendix A7 for each of the financial years from 2012 to 2015. The data provided by OneSteel was at times in respect of the total OneSteel business, and at times it was particular to rod in coils. In relation to the other economic factors, these showed:

- declining capital investment and assets employed in the production of like goods;
- loss of employment levels; and
- declining wages.

In SEF 301, the Commission considered the following economic factors<sup>28</sup> that are also considered to be relevant for this case:

#### Assets

Assets, measured at the depreciated value, declined from 2012 to 2015, beyond the amounts reinvested in asset sustainability and growth.

#### Capital investment

Total Rod & Bar division capital spend has been focused on sustainability of current equipment, with limited funds utilised for growth expenditure due to the pressure on the business. There has been an increase in capital investment from 2012 to 2015, however as noted the increased expenditure is offset within the asset values by increased depreciation and impairment of assets within the Rod & Bar division.

#### Capacity and capacity utilisation

Capacity has fallen over the period due to a reduction in shifts rostered.

Capacity utilisation has stayed relatively stable over the period 2012 to 2015, with like goods accounting for between 30% and 35% of capacity and other goods taking total capacity utilisation to between 87% and 92%.

The total potential capacity for the products is significantly larger, but currently limited by the shift structures with which the two rolling mills operate.

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<sup>28</sup> Page 37 of SEF 301 refers

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### Employment

Employee numbers have reduced from 329 staff in 2014 to 294 staff in 2015 for the rod mills. This is reflected in the capacity and capacity utilisation rates above. The reduction in staffing numbers has lowered production capacity as it reflects a reduced shift structure. The Commission notes that the rod mill can also be used to produce reinforcing bar in coil.

### Productivity

Productivity, measured as tonnes per shift, has improved from 1,803 tonnes in 2012 to 1,923 tonnes in 2015.

### Stock held

Stocks of rod in coils have decreased over the period from FY 2012 to FY 2015. This suggests a reduced level of holding costs for OneSteel as inventory and demand management has improved. As such, the Commission does not consider this reflects a cause of injury.

#### **6.8.1 Conclusion – other injury factors**

OneSteel's performance in relation to the other economic factors will be further examined during the course of the investigation.

#### **6.8.2 The Commission's assessment**

The Commission's assessment of the economic condition of the other injury factors submitted in the application is at **Confidential Appendix 4**.



## **7 REASONABLE GROUNDS – CAUSATION FACTORS**

### **7.1 Findings**

Having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has suffered injury caused by subsidised exports from China, and that the injury is material.

The Commission also considers that the causation factors identified in the SEF 301 can be relevant to this current subsidy case because the injury effects and the economic circumstances of the industry relate to the same goods and investigation period<sup>29</sup>. This section of the report, therefore, predominantly refers to the preliminary findings contained in SEF 301.

### **7.2 Legislative framework**

Subsection 269TC(1) of the Customs Act requires that the Commissioner reject an application for a countervailing duty notice if, *inter alia*, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a countervailing duty notice.

Under section 269TJ of the Customs Act, one of the matters that the Parliamentary Secretary must be satisfied of in order to publish a countervailing duty notice is that subsidisation has caused material injury to Australian industry. This issue is considered in the following sections.

### **7.3 Cause of injury to the Australian industry**

#### **7.3.1 Legislative framework**

The matters that may be considered in determining whether the Australian industry has suffered injury caused by dumped or subsidised goods are set out in section 269TAE of the Act.

### **7.4 The Applicant's claims**

The following summarises the causation claims of OneSteel.

#### Volume effects

- If OneSteel did not reduce its selling price then a greater loss of sales volume would have occurred;
- lost volume has led to increased fixed costs in relation to the production volume for OneSteel and consequently a loss of per unit profit;
- loss of sales volume due to the growth in volume of dumped and subsidised goods from China; and

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<sup>29</sup> From 1 July 2014 to 30 June 2015

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- market share gained by OneSteel as a result of measures being imposed (in accordance with the findings of INV 240) was not maintained and the market share lost by exporters subject to measures was gained by China and not by OneSteel.

### Price effects

- Dumped and subsidised exports from China consistently undercut the prices of all other sources of the goods including the prices of OneSteel; and
- Price suppression has led to increased fixed costs for OneSteel and consequently a loss of per unit profit.

### Profit effects:

Chinese export prices influenced OneSteel's prices, through price depression and suppression, consequently impacting OneSteel's profit and profitability.

### Other factors:

OneSteel contends that dumped and subsidised exports from China are the main source of the injury and did not provide any further evidence of other factors.

## **7.5 The Commission's assessment**

### **7.5.1 Price effects**

In section 8 of the SEF 301, the Commission considers that in a price sensitive market, the presence of dumped Chinese rod in coils imports represent the lowest price in the market is having an effect on the overall market.

In SEF 301, the Commission analysed the sales data provided by OneSteel to identify those customers in Australia that it has in common with the cooperating exporters. The Commission noted that the imported product regularly competes directly with OneSteel and that OneSteel maintains a market based price setting policy.

In report SEF 301, the Commission also considered that both OneSteel and other importers would be able to increase their prices in the market if Chinese dumped goods were not being exported to Australia, evidencing price suppression, and these prices would have been sufficient, at a minimum, to cover the full cost to make and sell goods produced by OneSteel, evidencing price depression caused by the Chinese dumped goods.

As such the Commission considers that the Australian industry was likely to achieve higher prices but for the dumped and subsidised imports from China.

### **7.6 Volume effects**

In SEF 301, the Commission has not identified sufficient evidence to support the claimed volume based injury. The applicant did not provide any additional information with its application that suggests otherwise.

### **7.6.1 Pricing and price undercutting**

In its application, OneSteel provided evidence to support its claim that the market for rod in coils in Australia is very price sensitive.

In SEF 301, the Commission found significant price undercutting by imports of the goods from China. The goods exported from China have the lowest price of those entered into the Australian market, and due to the commoditised nature of the goods, the Commission considers that other import prices have also been significantly impacted by the price undercutting of the Chinese goods.

On page 38 of SEF 301, the Commission found a consistent trend of China undercutting the non-import price by up to 38%, and the other import price offers and the OneSteel price offers being reduced.

The Commission notes that the goods are highly substitutable, and commodity like in nature. The Commission therefore considers that this increases the effect of price undercutting by dumped and subsidised goods from China.

### **7.6.2 Comparison of export price and non-injurious price**

As an additional test to establish whether there is a causal link between the alleged dumped and subsidised goods and material injury, the Commission sought to compare export prices from China with estimates of a non-injurious price (NIP) for the 12 months ending 30 June 2015.

To calculate the estimated NIP, the Commission estimated the unsuppressed selling price (USP) for rod in coils for the 12 months ending 30 June 2015 using the weighted average CTMS of OneSteel. At this stage, the Commission has not applied a profit to this CTMS.

The Commission then deducted amounts from that USP for importer SG&A and profit, including into-store costs, Customs duty and overseas freight. These calculations provided for NIP at the FOB level. This approach is consistent with INV 301.

The weighted average export price for the investigation period was below the NIP. The Commission considers this finding is consistent with OneSteel's claim that the allegedly dumped and subsidised goods have caused material injury.

The Commission's calculations of the NIP and the comparison with export price are at **Confidential Appendix 5**.

### **7.6.3 Conclusion – material injury caused by dumped and subsidised rod in coils**

In SEF 301, the Commission considers that the Australian industry was likely to achieve higher prices in the absence of dumped imports from China. As such, the Australian industry suffered material injury in the form of:

- Price depression;
- price suppression;
- lost opportunity to increase sales volumes;
- lost opportunity to increase market share; and
- reduced profits and profitability;

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The Commission considers that these direct impacts are likely to have indirectly impacted on the following forms of injury due to reduction in revenues leading to adjustments to production plants and staffing levels:

- reduced return on investment;
- reduced employee numbers; and
- reduced capacity utilisation rates.

Based on the above, the Commission considers that these indirect considerations are indicative that material injury was caused by sales of rod in coils exported to Australia from China at dumped and subsidised prices.

## 8 CONCLUSION

The Commissioner has examined the application and is satisfied that:

- the application complies with subsection 269TB(4); and
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of countervailing duty notice in respect of the goods the subject of the application.

Accordingly, the Commissioner has not rejected the application for the publication of a countervailing duty notice under subsection 269TB(1).

For the purposes of the investigation:

- the investigation period to determine whether goods were exported at subsidised price will be from **1 July 2014 to 30 June 2015**; and
- The Commissioner will examine the Australian market and the economic condition of the industry from **1 July 2011** for the purposes of injury analysis.

The Commissioner will also examine whether the trade in the subsidised goods provides a basis for any countervailing duty notice to apply retrospectively, pursuant to section 269TN of the Customs Act 1901.

**9 APPENDICES**

<b>Confidential Appendix 1</b>	Australian Market
<b>Confidential Appendix 2</b>	Export price and subsidy margin calculations
<b>Confidential Appendix 3</b>	Market Share and volume analysis
<b>Confidential Appendix 4</b>	Price, profit and profitability and other injury factors
<b>Confidential Appendix 5</b>	NIP and USP