

**Certain Hollow Steel Sections exported to New Zealand
from China and Malaysia**

**Application and Evidence of New Zealand Steel Limited for
Anti-Dumping Duties**

New Zealand Steel Limited

3 November 2017

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SUMMARY AND INTRODUCTORY MATTERS

Executive Summary

1. This application is made by New Zealand Steel Limited ("NZS") under the Trade (Anti-dumping and Countervailing Duties) Act 1988, an Act to provide for the imposition of dumping and countervailing duties.
2. This application requests that the Chief Executive initiate and carry out an investigation and determine a rate or amount of anti-dumping duty on certain Hollow Steel Sections ("HSS"¹) goods from China and Malaysia pursuant to section 10(1) of the Trade (Anti-dumping and Countervailing Duties) Act 1988 ("the Act").
3. Provisional anti-dumping duties on the Chinese and Malaysian goods pursuant to section 16 (1) (b) of the Act are separately requested to prevent material injury being caused to the domestic industry during the period of investigation.
4. The evidence indicating the existence of dumping and injury in this application is:
 - a) China and Malaysia are exporting HSS to New Zealand at dumped prices. The margin of dumping is estimated to average 32% for China and 36% for Malaysia.
 - b) Injury is being suffered by NZS from the Chinese and Malaysian goods in the form of price undercutting in F16 and into F17. The estimated undercutting amounts on the Chinese and Malaysian HSS landing in New Zealand in F16 and F17 is ■■■%² and ■■■% respectively, which is NZ\$■■■ and NZ\$■■■/t. The undercutting is causing price suppression and price depression, as NZS continues to price its goods into the New Zealand distribution and processing market with reference to the import price of the unfairly traded goods at that same primary level of trade. NZS considers that the goods from China have caused the NZS EBIT per unit and EBIT to progressively reduce through F11-F17. [*This information is price undercutting percentages and this information is commercially sensitive because it would provide a competitor with a competitive advantage*]
 - c) NZS is suffering material adverse economic effects from the Chinese and Malaysian goods, primarily via effect on prices - as contemplated by specific mention of prices at sections 8(1)(b) and 8(2)(d)(ii) of the Act. Price-driven effects are apparent in NZS's price per unit (per unit being the means by which price for all steel goods is measured³) being lower in all years following F11.

¹ HSS comprises circular cross-section steel tubes and tubes of non-circular cross section. The latter can be of square, rectangular or oval cross section. The acronym CHS is sometimes used to refer to Circular Hollow Sections. The acronym RHS is sometimes used to refer to Rectangular Hollow Sections.

² Certain unusual import data factors are material in this figure in particular. For reasons given in this application, this figure is believed to be understated however at the level noted here it is of economically material scale.

³ Positive evidence of price and prices being measured in a currency per a unit of mass (usually per tonne) can be found at <http://www.worldsteelprices.com/> and http://www.aksteel.com/pdf/markets_products/carbon/AK_Carbon_Steel_PB_201503.pdf and

- d) EBIT in absolute terms (notwithstanding EBIT is not a measure of price effects, but is step-removed from that commercial juncture) is lower in F16 and F17 than in any of the other five years examined in this application.

Applicant

5. This application is made by New Zealand Steel Limited ("NZS") whose address is 131 Mission Bush Rd, Glenbrook, Private Bag 92121, Auckland 1142.
6. The applicant contact name is Mr Chris Blenkiron, Manager Marketing, Sales & Business Development. Phone (09) 375 8999.
7. The applicant's financial years end on 30 June. F16 denotes the financial year ending on 30 June 2016.
8. NZS's parent company is the Australian listed company BlueScope Steel Limited (ASX: BSL) ⁴.
9. The applicant manufactures flat, flat coated, flat painted and HSS steel products at the integrated steel works in Glenbrook, south Auckland.

Positive evidence justifying the need for an investigation

10. It is alleged that the Chinese HSS is being dumped and is causing material injury to the New Zealand industry principally through the following price-related effects:
 - a) price undercutting;
 - b) price depression; and
 - c) price suppression.
11. Resulting in (principally) the following economic impacts on domestic producers:
 - i. Adverse consequence upon sales;
 - ii. Adverse consequence upon profits both in per unit (e.g. EBIT/t), and overall (i.e. EBIT);
 - iii. Adverse consequence upon return on investment; and
 - iv. Adverse consequence upon cashflow.
12. The positive evidence provided in support of this application for initiation is:
 1. The evidence provided by NZS itself in this document and the attached appendix; and
 2. The evidence provided from external sources referenced in this application.

13. It is accepted that in the course of the investigation itself a good deal more evidence will be gathered and considered by the Ministry. The ambit of this application is to the prima facie stage, that is, on first appearance and adequate at first sight, to provide the positive evidence available to NZS at present

<http://usa.arcelormittal.com/what-we-do/steel-products/price-lists> and
<http://steelbenchmarker.com/files/history.pdf>

⁴ See <https://www.bluescope.com/investors/annual-reports/>

justifying the need for investigations to take place. Investigative activity in the nature of verification of the evidence in this application is a matter for the post-initiation 180-day period.

New Zealand Industry

14. NZS is a New Zealand producer of HSS using Hot Rolled Coil ("HRC") semi-finished steel. NZS makes HSS with wall thicknesses between 2.0mm and 6.0mm.

15. NZS draws attention to three other, unrelated party (as that term is defined in the Companies Act 1993) New Zealand manufacturing companies who also make steel pipes. These companies are:

Steelpipe. This company is part of the McConnell Group. Steelpipe's address is 224 Neilson Street, Onehunga, Auckland 1061. Phone 09 622 4580. The Steelpipe goods are identified on their website as being used in a wide variety of applications including water and sewage transmission, outfalls, pile casings, high-spec pipelines and commercial structures. Steelpipe's spiral welded steel pipe is used in structural applications, such as foundation work (pile casing or piling) and in wharf, bridge and building construction projects.⁵ The Steelpipe goods are made from HRC, but NZS considers that they are not like goods because the diameters are significantly larger and the goods are used for different purposes than the HSS goods made by NZS.

Industrial Tube Manufacturing Co. Ltd.⁶ The company address is 278 Kahikatea Drive, Frankton, PO Box 9506, Hamilton 3240. Phone 07 847 5333. Industrial Tube Manufacturing goods are considered like goods, because the goods made by Industrial Tube Manufacturing have a physical, commercial and functional likeness to the goods made by NZS. The Industrial Tube Manufacturing product range is identified on their website as encompassing goods with wall thickness in the range 0.8mm to 2.5mm. The Industrial Tube Manufacturing range therefore overlaps the 2.0mm to 6.0mm wall thickness range of the goods made by NZS⁷.

New Zealand Tube Mills Ltd.⁸ The company address is 2-14 Port Road PO Box 36036 Wellington Mail Centre, Lower Hutt 5045, Phone +64 4 568 4079 Fax +64 4 568 9153. NZ Tube Mills goods are considered by NZS to be like goods because the goods made by NZ Tube Mills have a physical, commercial and functional likeness to the goods made by NZS. The NZ Tube Mills website identifies their goods to have a wall thickness range from 1.0mm to 3.0mm. The NZ Tube Mills range therefore overlaps the 2.0mm to 6.0mm wall thickness range of the goods made by NZS.

16. NZS has assessed industry representation on the basis that Industrial Tube Mills and NZ Tube Mills also manufacture like goods. To the extent that necessary information is reasonably available to it, NZS

⁵ This descriptive information is from and is attributed to the Steelpipe company. See <http://www.steelpipe.co.nz/>

⁶ See www.steeltube.co.nz

⁷ NZS considers that there is no particular specific usage limitation arising at a specific wall thickness. Thinner gauge goods can to some degree be utilised, i.e. if desired be substituted in applications more usually the field of thicker gauges, and vice-versa.

⁸ See www.nztubemills.co.nz

estimates that the New Zealand production shares by product volume (tonnes) in the most recent completed year F17 are NZS = █% (comprising █ tonnes – off sales tonnes, including █ tonnes which are sold to export, as inventory change is immaterial), Industrial Tube Mills = an estimated █% (comprising an estimated █ tonnes production in F17) and NZ Tube Mills = an estimated █% (comprising an estimated █ tonnes production in F17). The total estimated New Zealand production of domestic like product in this calculation is █ tonnes. NZS comprises a major proportion of New Zealand production of like goods and therefore the requirements of sections 3A(b) and 10(3) of the Act are met. *[This information is price NZS volume and other party estimated volume, and market share information and this information is commercially sensitive because it would provide a competitor with a competitive advantage]*

17. On the basis of average NZS selling price per tonne, the value of New Zealand production of the domestic like product including estimated Industrial Tube Mills and NZ Tube Mills is NZ\$█ million. *[This information is estimated NZ volume information and this information is commercially sensitive because it would provide a competitor with a competitive advantage]*

18. Letters of support for this application (as required by the Ministry⁹) from Industrial Tube Mills and NZ Tube Mills are attached at Appendix Four.

19. NZS and its owner BlueScope do not have any ownership interest in any Chinese or Malaysian manufacturer of HSS.

New Zealand Industry Structure / Level of Trade, Customers and Market Shares

20. New Zealand Steel's approach is to focus on efficient manufacture of assured-quality, fit-for-purpose HSS products with responsive marketing and production support for its customers.

21. NZS does not operate at the distributor level in the New Zealand steel industry value chain. It is a manufacturer of primary HSS goods. It supplies those goods to primary-level distributors. As positive evidence, NZS observes that in F15 and F16 █% of NZS's HSS domestic sales volume was sold to large New Zealand steel distributors.¹⁰ *[This information is estimated NZ volume share information and this information is commercially sensitive because it would provide a competitor with a competitive advantage]*

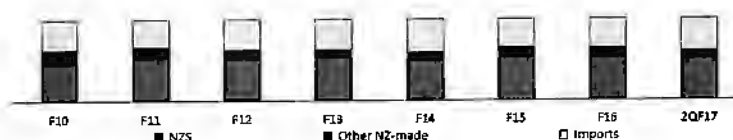
22. NZS domestic sales are all made on a █ basis to distributor level customers. NZS considers that the appropriate level of trade for selling price undercutting purposes is ex-factory vs ex-wharf for imported goods, because this is the basis on which selling prices are set. New Zealand primary distributors/processors of HSS have a choice of buying imported goods or New Zealand-made NZS goods. The below diagram illustrates the New Zealand industry structure. *[this information is a price selling basis and is commercially sensitive because it would provide a competitor with a competitive advantage]*

⁹ That Ministry instruction is at S.2.1/2 of the Ministry application guide which states: "An investigation can only proceed if the application has a minimum level of support from the industry. Therefore, if there are other NZ producers you will need to find out whether they would support or oppose an application.... Written expressions from the NZ producers, of support and opposition to the application, should be attached". See <http://www.mbie.govt.nz/info-services/business/trade-tariffs/documents-image-library/Dumping-investigation-application-form.pdf>

¹⁰ Cell K48 in sheet "Compiled and Chart" in file "NZ HSS Production and Market Share █". *[This information is a date and this information is commercially sensitive]*



23. NZS’ best estimate of market shares encompassing New Zealand manufacture of HSS goods and other supply to the most recent completed year F16 and to 31 December 2017 are shown below.¹¹ These are calculated by adding the estimated New Zealand HSS imports to an estimated domestic sales volume of HSS goods¹² to obtain the total New Zealand market size, then reflecting shares therein. NZS notes that the material injury claims in this application do not encompass market share-related matters.



New Zealand Steel Pricing Structure

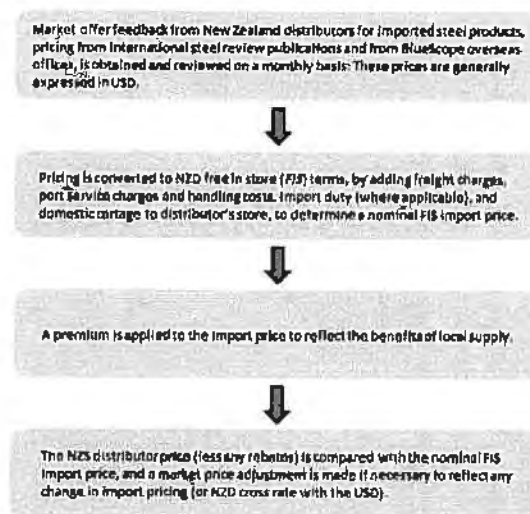
24. The unfairly traded HSS goods have a similar pricing structure to NZS-made products. In order to maintain New Zealand HSS market share, NZS must respond to prevailing import HSS price offers and import HSS product flow. Import price are taken to NZS via commentary such as identifying a mill name or country and the price of those alternative goods.

25. NZS pricing to the merchant distributor and end user market is based on import parity pricing and is reviewed [redacted] to ensure competitiveness. A premium is applied over import pricing to reflect the benefits of local supply and NZS’ market offer. Benefits of local supply and the NZS market offer include short lead times, order flexibility, small order item quantities, product quality, technical service and customer service, and New Zealand currency pricing. [The redacted information in this paragraph is price and meetings-related and is commercially sensitive because it would provide a competitor with a competitive advantage]

26. The flow chart below shows the NZS import parity pricing (IPP) process, which is generally [redacted] [The redacted information in this paragraph is price and meetings-related and is commercially sensitive because it would provide a competitor with a competitive advantage]

¹¹ Sheet “Compiled” in file “NZ HSS Production and Market Share [redacted]” [This information is a date and this information is commercially sensitive]

¹² The figure [redacted] tonnes identified above for the most recent completed year. [This information is estimated NZ volume information and this information is commercially sensitive because it would provide a competitor with a competitive advantage]



Manufacturing Method

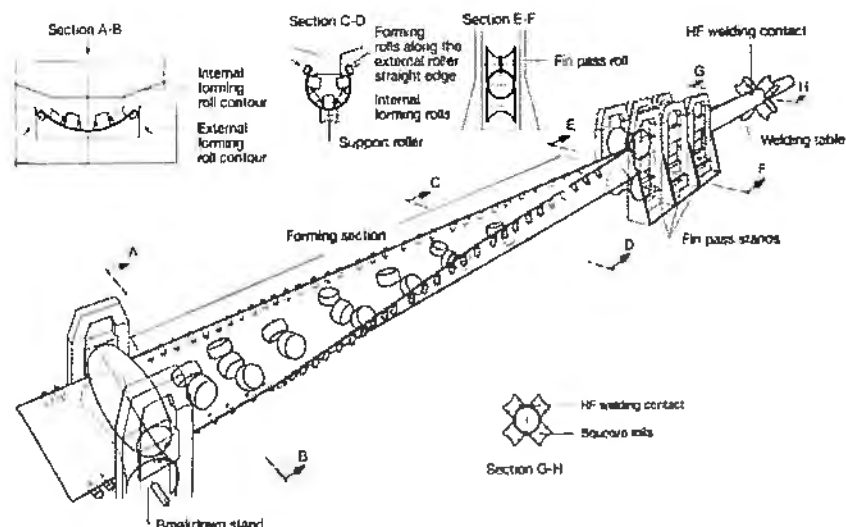
27. Below is a diagram of the HSS manufacturing method.¹³ Hot Rolled Coil (“HRC”) or Cold Rolled Coil (“CRC”) is fed off the coil through a set of rollers wherein it is shaped into a progressively circular, rectangular, oval or square form. The manufacturing method comprises horizontally drawing and feeding moving coil which passes through a breakdown stand, along rollers in the forming section where the previously flat steel is formed by internal forming, through squeeze rolls and fin pass stands/rollers then to the welding table where the now-formed circular or non-circular product is electric-resistance welded. This process is continuous. Various steps then follow, involving length cutting of HSS, cleaning and (for some goods) coating with paint, oils or zinc. The manufacturing method also consumes electricity (to drive motors and effect welding) and some fluids. The manufacturing method requires skilled operating personnel.

28. The manufacturing method or process (guidance as to what that means is at footnote¹⁴) is thus one that can be summarised as use of a plant which forms and welds steel into a hollow form. All ERW pipe has this identical manufacturing method in that all ERW pipe, of any finished dimension, wall thickness or product grade, undergoes an identical manufacturing method, which is a forming and welding process. At this juncture NZS notes guidance from the Australian Customs and Border Protection Service which refers to characteristics such as size (i.e. the dimension of goods formed and welded) being a matter under physical likeness of finished goods, which is distinguished from, and should not be conflated with, production likeness which involves considerations such as whether the goods have undergone a similar manufacturing process.¹⁵

¹³ This illustration is provided to assist the explanation of the HSS manufacturing method. It is sourced from and acknowledged to [http://www.smrw.de/files/steel tube and pipe.pdf](http://www.smrw.de/files/steel_tube_and_pipe.pdf) at [40]

¹⁴ “Manufacturing engineering or manufacturing process are the steps through which raw materials are transformed into a final product. The manufacturing process begins with the product design, and materials specification from which the product is made. These materials are then modified through manufacturing processes to become the required part.” See <https://en.wikipedia.org/wiki/Manufacturing>

¹⁵ Australian Customs and Border Protection Service. Dumping and Subsidy Manual, August 2012. At [9-10].



Goods Description

29. Description of the goods subject to this application for initiation of an investigation is: Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and noncircular hollow sections. Normally referred to as either CHS (circular or oval hollow sections) or RHS (rectangular or square hollow sections) collectively referred to as hollow steel sections (HSS).

30. Finish Types of the goods subject to this application for initiation of an investigation are: galvanised (including in-line galvanised (ILG), pre-galvanised or hot-dipped galvanised (HDG)); or non-galvanised (including, but not restricted to, painted, black, lacquered or oiled finishes).

31. Sizes of the goods subject to this application for initiation of an investigation are: Circular products – nominal diameter up to and including 150 mm; or oval, square and rectangular products – perimeter up to and including 520mm. The goods may also be categorised according to minimum yield strength, the most common classifications being 250 and 350 MPa. Further detail and discussion of sizes appears at paragraphs 42 to 46.

32. Tariff classification: New Zealand's tariff classifications do not align with the above subject goods size description. Up to end 2016 if the goods have been correctly coded, all the goods in Tariff Items 7306301911, 7306301921, 7306610019 and 7306610027 of the Tariff of New Zealand will be subject goods. Some subject goods are, or may be, in up to 114 other tariff classifications currently¹⁶ in the Tariff of New Zealand.

33. NZS considers that the four codes in the above paragraph is the best, most reasonably available tariff-based representation of the subject goods, however considers that the import volume estimate is understated, in the case of Chinese goods in 2017 is of overstated value, and in the case of Malaysian goods,

¹⁶ Some classification changes in the relevant section of the Tariff of New Zealand have recently been made. That and other know mis-coding seriously affects the NZS import goods volume and value analysis. Some of the codes in the current suite of possible codes thus have no entries or data in F12 to December 2016. Code usage and publication has not been continuous through time. Some previously, wide-coverage codes have subsequently been divided.

of understated volume. Volume and value metrics are discussed in the New Zealand Import Volumes of HSS section of this application.

34. NZS considers that the galvanised pipe products manufactured in New Zealand by NZS are like the unfairly traded goods on the following grounds:

Physical Characteristics and Likeness

35. Products made locally by NZS have the same physical characteristics as the goods from China and Malaysia. The locally produced NZS goods are made to and meet New Zealand/Australian Standards. The imported Chinese goods are label-identified as having been made to New Zealand/Australian Standards or (in the case of some imported goods) are label-identified to having been made to a now-outdated version of a British Standard to which NZS previously manufactured. The grades, shape and appearance are alike.

36. NZS notes at this point that the WTO panel in *Indonesia - Autos* held that the term “characteristics closely resembling” is “on its face... quite narrow” and “includes but is not limited to physical characteristics”.¹⁷ <emphasis added>

Commercial Likeness

37. HSS made locally by NZS are commercially like the alleged unfairly traded HSS from China and Malaysia. The goods commercially compete with one another in the same New Zealand market, with strong price competition. The distribution channels – that is, distributor route to market - are the same.

Function/substitutability and End-use Likeness

38. Both the locally produced and alleged dumped goods have comparable or identical end uses and are functionally substitutable. Both the goods made locally by NZS and the alleged unfairly traded HSS from China and Malaysia can be put to the following end-uses:

- i. air compressor handles,
- ii. air conditioning components,
- iii. automotive and boat trailers,
- iv. bus and truck skeletons, framing and ancillary mounts,
- v. child playground equipment (e.g. trampoline guards, frames and legs),
- vi. communication and TV aerial supports,
- vii. cowshed equipment,
- viii. equipment and furniture frames,
- ix. fencing posts, rails, bracing and stays,
- x. flagpoles,
- xi. gantries,
- xii. gates and agricultural plant and equipment,
- xiii. general manufacturing,
- xiv. glass-house components,
- xv. hand trucks and dollies,

¹⁷ Panel Report, *Indonesia – Autos*, at [14.172] – [14.173]. The Appellate Body in *EC – Large civil aircraft* referred to the legal criteria set out by this panel.

- xvi. industrial and safety guarding and rails (e.g. around gas installations),
- xvii. irrigation componentry
- xviii. lawnmower handles,
- xix. light engineering structures,
- xx. lighting and electric pole extensions,
- xxi. livestock handling equipment (drafting yards),
- xxii. mechanical and industrial equipment,
- xxiii. outdoor furniture,
- xxiv. railway electrification arms,
- xxv. scaffolding and scaffolding systems,
- xxvi. security camera supports,
- xxvii. service bridges,
- xxviii. shop-fittings,
- xxix. sign gantries,
- xxx. some reticulation, heating and ventilation and pressure applications,
- xxxi. some¹⁸ RHS and square as a lintel,
- xxxii. street signpoles,
- xxxiii. pallets and stock crates,
- xxxiv. supermarket trolley frames and park returns,
- xxxv. utility and service vehicle after-market frames and componentry (ladder and upright glass holders, bull-bars, towbar items etc),
- xxxvi. welded fabrications of a wide range of types.
- xxxvii. wheelbarrow handles,
- xxxviii. workbench frames.

39. The high degree of product substitutability between locally produced and alleged dumped goods across the above end uses arises from like mechanical performance.

Production Likeness

40. This matter relates to input materials and manufacturing method. HSS made locally by NZS and the alleged unfairly traded HSS from China and Malaysia are both comprised of ferrous material, that is, carbon steel. That input material arises via smelting or via ferrous scrap waste recovery in an EAF steel plant as a carbon steel slab. The slab is converted into steel plate, thence to hot rolled coil/cold rolled carbon steel coil for feed into an HSS plant.

41. HSS made locally by NZS and the alleged unfairly traded HSS from China and Malaysia are both made in manufacturing plant and by the manufacturing method described at paragraphs 27 and 28. The typical equipment arrangement and parts used in the manufacture of both locally produced products and the alleged unfairly traded HSS from China and Malaysia is shown in the paragraph 28 illustration. While there can be some finished dimension differences between the HSS made locally by NZS and the alleged unfairly traded HSS from China and Malaysia there are no differences in manufacturing method between the HSS made locally by NZS and the alleged unfairly traded HSS from China and Malaysia.

Substitutability and Price Transparency/Spillover

¹⁸ RHS of dimensions 102x76mm, 125x75mm and 127x51mm, and square 89x89mm and 100x100 (all of >3mm wall thickness).

42. NZS draws attention to a subject goods dimension matter. The locally-produced NZS goods are currently made in sizes up to 114.9mm OD for circular, and 127mm dimension and 400mm perimeter for non-circular product. The subject goods dimension identified above at paragraph 31 is 30% greater than those NZS values to address the particular circumstances of this case. This estimates the extent of possible price spillover and injury by >114.9mm goods upon <114.9mm goods in the manner explained by the Canadian International Trade Tribunal¹⁹ in a recent steel pipe case. This matter is also underpinned by some functional product substitutability.

43. Overlaying the above price spill-over circumstance is very strong to near-perfect, HSS goods pricing continuity of HSS goods of adjacent dimension. Positive evidence of this pricing continuity and spill-over is found in the [REDACTED] HSS pricing. One item of correspondence involved an offer of [REDACTED] HSS prices for goods from 50x50mm to 500x300mm²⁰. Another item identified [REDACTED] specified sizes of HSS between 80mm and 200mm²¹. A third item comprised an offer for two different size steel pipes²². *[The redacted information in this paragraph is correspondence-related and is commercially sensitive because it would provide a competitor with a competitive advantage]*

44. The [REDACTED] goods specifications in the unsolicited document are all identically priced per tonne, that is, the price continuity of the [REDACTED] goods offer of adjacent width HSS is perfect. In the [REDACTED]-HSS goods offer the price continuity is not perfect, but nonetheless is very strong – evidenced, for example, by the σ being 2.3% of the μ . In the third example, the price offer of two sizes of [REDACTED] HSS has negligible 1.79 percent price difference between the smaller diameter HSS and the larger diameter HSS. *[The redacted information in this paragraph is correspondence-related and is commercially sensitive because it would provide a competitor with a competitive advantage]*

45. The price spill-over identified above is supported by product substitutability between locally produced and alleged dumped goods across the product end uses in paragraph 38. An OEM Engineer can achieve the desired mechanical performance in a HSS application via design options comprising fewer, but larger dimension HSS, or, alternatively, a greater number of smaller dimension HSS members. Engineers can similarly substitute for the desired mechanical performance via wall thickness and grade choice, in combination with cross section, and number/arrangement of HSS members.

46. On the above grounds the subject goods description is identified as being dimensionally greater than the currently-made NZS goods. The goods <114.9mm closely resemble goods >114.9mm. To summarise, that is because:

¹⁹ For example in the Canada Border Services Agency pipe¹⁹ and fasteners¹⁹ cases. See Inquiry No. NQ-2015-002, from [200]; in particular, see [210], [212] and [213], and Inquiry No. RR-2014-001, at [211].

²⁰ [REDACTED], received [REDACTED] 2017. *[The redacted information in this paragraph is correspondence-related and is commercially sensitive because it would provide a competitor with a competitive advantage]*

²¹ [REDACTED], received [REDACTED] 2017. *[The redacted information in this paragraph is correspondence-related and is commercially sensitive because it would provide a competitor with a competitive advantage]*

²² [REDACTED], received [REDACTED] 2017. *[The redacted information in this paragraph is correspondence-related and is commercially sensitive because it would provide a competitor with a competitive advantage]*

- a) there are no manufacturing differences between the goods made by NZ Steel and the goods in the subject goods description²³, and
- b) characteristics “closely resembling” includes but is not limited to physical characteristics, and
- c) there is specific evidence above at paragraph 44 of near-perfect price connectivity – and thus potential price spill-over - between the goods made by NZ Steel and the goods in the subject goods description, and
- d) there is commercial interchangeability between the goods made by NZ Steel and the goods in the subject goods description.

Other Comments

47. Mill finish means black. That term is in the finish type description above; Primed means either of painted or lacquered which are terms in the finish type description above; The length of pipe is not significant. Length range need not be specified in the goods description; “Other galvanised circular hollow sections” and galvanised “carbon steel pipe” are similar terms and descriptions; Un-primed pipe is black pipe and enters under the four-item group of tariff and statistical keys; Zinc coatings can be applied by processes other than hot dip galvanising but that is uncommon; There are no other goods with the same form, function or usage.

Descriptive Product Comments

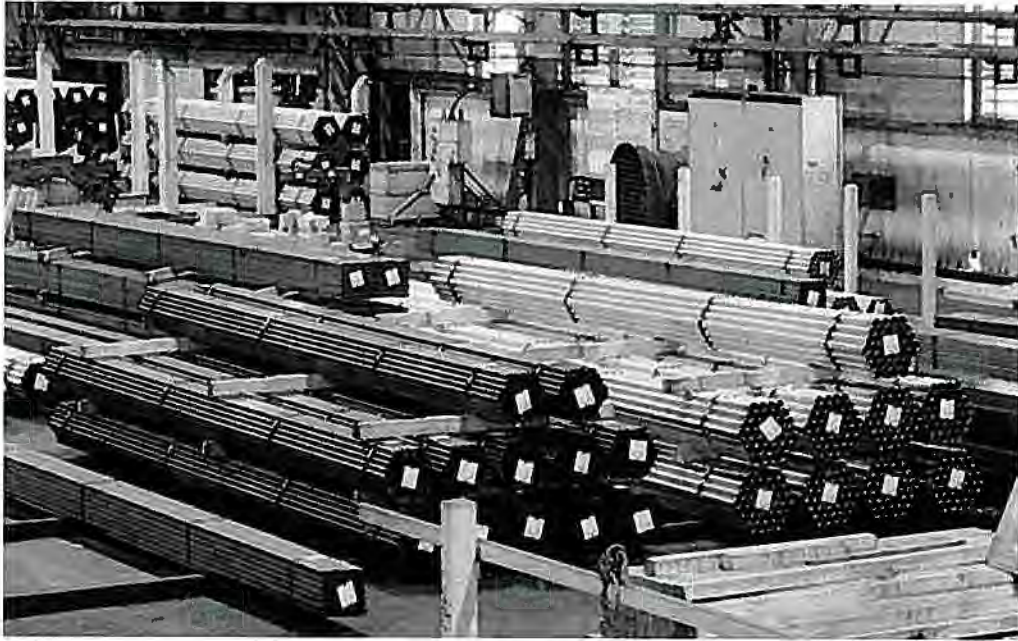
48. Some further general description of HSS goods produced by NZS is provided below. This is marketing and technical material from the NZS website.²⁴

49. NZS’s Just Black Dualgrade C350/C450 is a range of structural and general purpose cold formed electric resistance welded square and rectangular hollow sections. These products are manufactured to meet the mechanical property requirements of both grade C350 and C450 and are suitable for welding and limited bending. Just Black Dualgrade C350 and C450 hollow sections are suited to load bearing applications and have good torsional strength, impact strength and a high strength to weight ratio.

50. The photo below shows some HSS goods bundle-packaged, strapped and ID’d. White tags at the end provide details of product size, specification and grade. The goods at right of the photo have circular cross section. The goods in the lower left hand of the photo have square cross section, i.e. they are square tube HSS. Square and rectangular tubes are bundled in vertical-horizontal form. Round product is normally bundled/packaged/strapped in a hexagonal form. Manufacturers typically apply coloured paint to HSS to assist product identification when the goods are unbundled in a workshop.

²³ Manufacturing method is a matter not to be conflated with dimension of goods so manufactured. Goods <114.9mm and goods >114.9mm are of different dimension, but the method by which they are manufactured is identical.

²⁴ See <http://www.nzsteel.co.nz/products/pipe-and-hollow-sections/>





Data Sheet

Circular Hollow Sections

Revision 20/08/2015

PP

GENERAL DESCRIPTION

New Zealand Steel manufactures a range of general purpose, reticulation and structural, cold formed electric resistance welded circular hollow sections. These products are manufactured to meet international specifications and are supplied in a range of sizes, and surface and end finishes. Pipes are suitable for welding, screwing and bending.

APPLICATIONS

Reticulation, agricultural, architectural, general engineering, mechanical handling and structural uses such as:

- Building services pipe work
- Cowsheds and yards
- Fencing
- Scaffolding
- Agricultural implements
- Frames and stock crates
- Sign gantries
- Service bridges
- Railings
- Columns
- Trusses

STANDARDS

- AS 1074:1989
- AS/NZS 1163:2009 Grade C250 / C350
- AS/NZS 4792:2006 Galvanising

PACKING

Despatched material will be packed appropriately providing protection against weather and transit damage.

Mechanical Properties			
	AS1074	AS/NZS1163 C250	AS/NZS1163 C350
Min Yield Strength (MPa)	195	250	350
Min Tensile Strength (MPa)	320	320	430
Min Elongation (%)	20	18 – 22	16 – 20

Available Dimensions	
Thickness	2.0mm – 5.4mm
Nominal Diameter (bore)	15mm – 100mm
Outside Diameter	21.3mm – 114.3mm

Surface Finish
Black (Mill Finish)
Galvanised HDG 300
Red Primed

Available Lengths			
Coating	ND Range	Length Range	Standard Length
Black	15mm – 50mm	4.1m – 8.0m	6.5m
	65mm – 100mm	4.5m – 9.0m	6.5m
Galvanised	15mm – 50mm	4.1m – 6.5m	6.5m
	65mm – 100mm	4.8m – 6.5m	6.5m

End Finishes
Plain End (Mill Cut)
Screwed One or Both Ends
Screwed and Socketed
Swaged

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AS1074 and AS/NZS1163 C250(L0) SPECIFICATION		
SIZE ND (MM)	DESCRIPTION	THICKNESS (mm)
15	Light	2.0
15	Medium	2.6
20	Light	2.3
20	Medium	2.6
20	Heavy	3.2
25	Light	2.6
25	Medium	3.2
25	Heavy	4.0
32	Light	2.6
32	Medium	3.2
32	Heavy	4.0
40	Light	2.9
40	Medium	3.2
40	Heavy	4.0
50	Light	2.9
50	Medium	3.6
50	Heavy	4.5
65	Light	3.2
65	Medium	3.6
65	Heavy	4.5
80	Light	3.2
80	Medium	4.0
80	Heavy	5.0
100	Light	3.6
100	Medium	4.5
100	Heavy	5.4

AS/NZS1163 C250(L0) SPECIFICATION		
SIZE ND (MM)	DESCRIPTION	THICKNESS (mm)
20	Extra Light	2.0
25	Extra Light	2.0
32	Extra Light	2.0
40	Extra Light	2.3
50	Extra Light	2.3
65	Extra Light	2.3
80	Extra Light	2.6
100	Extra Light	3.2

AS/NZS C350(L0) SPECIFICATION		
SIZE ND (mm)	DESCRIPTION	THICKNESS (mm)
20	Extra Light	2.0
20	Light	2.3
25	Extra Light	2.0
25	Light	2.6
32	Extra Light	2.0
32	Light	2.6
40	Extra Light	2.3
40	Light	2.9
50	Light	2.9
65	Light	3.2

MANUFACTURING TOLERANCES	
Outside Dimension	
AS1074	Per Standard Tables 2.1, 2.2 and 2.3
AS/NZS1163	±1% (min ±0.5mm, max ±10mm)
Thickness	
AS1074	-8%, +unlimited (Light)
	-10%, +unlimited (Medium and Heavy)
AS/NZS1163	±10%
Straightness	
AS1074	0.20% of Total Length
AS/NZS1163	0.20% of Total Length
Length	
AS1074	±0.08m
AS/NZS1163	-0.0mm, +15mm

THICKNESS IDENTIFICATION	
Extra Light	Green
Light	Yellow
Medium	Blue
Heavy	Red

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Data Sheet

Dual Grade C350/C450L0 RHS

Hollow Sections

Revision: 20/08/2016

PP

GENERAL DESCRIPTION

New Zealand Steel Just Black Dual Grade C350/C450 RHS is a range of structural and general-purpose cold formed electric resistance welded square and rectangular hollow sections.

These products are manufactured to meet the mechanical property requirements of both C350 and C450 and are suitable for welding and limited bending.

Just Black Dual Grade C350/450L0 hollow sections are suited to load bearing applications, have good torsional strength, impact strength and a high strength to weight ratio. Typical applications include agricultural, general engineering, mechanical handling and structural.

APPLICATIONS

- Agricultural implement frames
- Trailers
- Pallets and stock crates
- Sign gantries
- Service bridges
- Railings
- Columns and trusses

STANDARDS

- AS1163:2009 Grade C350/C450L0 Galvanizing
- AS/NZS 4792.2006

PACKING

Despatched material will be packed appropriately providing protection against weather and transit damage.

MECHANICAL PROPERTIES	
Min Yield Strength (MPa)	450
Min Tensile Strength (MPa)	500

	MINIMUM ELONGATION % (G.L. 5.65 $\sqrt{S_0}$)		
	RHS (WIDTH \div THICKNESS)		
	≤ 15	>15 and ≤ 30	>30
C350 / C450	12	15	16

CHARPY IMPACT TESTING	
Gauge < 6 mm	
Gauge ≥ 6 mm	Min 27J Ave of 3 Tests

FABRICATING PERFORMANCE	
1 = Limited, 5 = Excellent	
Method	Rating
Drawing	-
Pressing	-
Bending	1
Roll Forming	-
Welding	5

AVAILABLE FORMS	
Black (Mill Finish)	
Galvanised (Limited Size Range)	
Pre-Primed	

AVAILABLE DIMENSIONS	
Thickness	2.0mm – 6.0mm
Squares	25x25 to 100x100
RHS	25x50 to 125x75

AVAILABLE LENGTHS		
	Length Range	Cut Tolerance
Normal	4.5m – 9.0m	-0.0mm, +20.0mm
Exact	4.5m – 9.0m	-0.0mm, +6.0mm

STANDARD LENGTHS	
Finish	Length (m)
Black	8.0
Galvanised	6.5 max
Pre Primed	8.0

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RECTANGULAR HOLLOW SECTIONS		
Nominal Size mm	Wall Thickness mm	Black Mass kg/m
50x25	2.0	2.15
	2.5	2.62
	3.0	3.07
65x35	2.0*	2.93
	2.5	3.60
	3.0	4.25
	4.0	5.35
75x40	2.5	4.18
	3.0	4.95
	4.0	6.29
75x50	2.0*	3.72
	2.5	4.58
	3.0	5.42
	4.0	6.92
	5.0	8.35
100x50	2.5	5.56
	3.0	6.60
	4.0	8.49
	5.0	10.30
102x76	3.5	9.09
	5.0	12.50
125x75	3.0	8.96
	4.0	11.60
	5.0	14.20
127x51	3.5	9.09
	5.0	12.50
* Only Grade C350 Available		

SQUARE HOLLOW SECTIONS		
Nominal Size mm	Wall Thickness mm	Black Mass kg/m
25x25	2.0	1.36
	2.5	1.64
	3.0	1.89
35x35	2.5	2.42
	3.0	2.83
	4.0	2.46
40x40	2.0	2.31
	2.5	2.82
	3.0	3.30
	4.0	4.09
50x50	2.0*	2.93
	2.5	3.60
	3.0	4.25
	4.0	5.35
	5.0	6.39
65x65	2.5	4.78
	3.0	5.66
	4.0	7.23
	5.0	8.75
75x75	2.5	5.56
	3.0	6.60
	4.0	8.49
	5.0	10.30
89x89	6.0	12.00
	3.5	9.07
	5.0	12.50
100x100	6.0	14.70
	3.0	8.96
	4.0	11.6
100x100	5.0	14.2
	6.0	16.7
* Only Grade C350 Available		

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New Zealand Steel HSS Exports

51. NZS exports HSS. In F17 HSS export sales by NZS amounted to [REDACTED] tonnes out of total sales of [REDACTED] tonnes.²⁵ Export-related costs have been excluded from the financial data by (when undergoing data assembly) referencing and accessing only the appropriate non-export codes/row items in the BPCS and Control financial reporting systems. *[this information is NZS sales volume-related and is commercially sensitive because it would provide a competitor with a competitive advantage]*

Chinese and Malaysian HSS Import Suppliers to New Zealand

52. Known suppliers of the Chinese goods to New Zealand are listed below. Import data estimate for the Chinese HSS goods being sold to New Zealand appears at paragraph 64. NZS is aware that imported HSS goods can enter and be consumed in the New Zealand market at retail or into projects without visibility to the New Zealand Industry. Due to possible tariff mis-coding, HSS goods from China and other countries may not be readily visible in the statistics published by Statistics New Zealand.

53. Because of the preceding reasons, there may be other Chinese HSS goods in the New Zealand market that are not made by or sourced through the three entities identified below.

Dalian Steelforce Hi-Tech Co., Ltd. Company address is A-7, Dd 2 Street, Dd Port, Dalian Shi, Jinzhou Qu, 数字2路, Liaoning Province, China 118600. This company is associated with the Australian company Australia Steelforce Pty., Ltd. The General Manager is Mr Jerry Zheng. Email: zhengj@steelforce.com.cn. Phone +86 4111 875 49531.

Stemcor. According to its website, Stemcor is one of the world's largest independent steel traders. Stemcor Australia Pty Limited is registered with the New Zealand Companies Office as an Overseas ASIC Company. It has an office in Auckland, New Zealand. Head office of Stemcor Global Holdings Ltd is Elizabeth House, 9 Castle Street, St Helier, JE2 3RT Jersey Tel: +44 (0)20 7775 3600 Fax: +44 (0)20 7775 3679 Email: grouperquiries@stemcor.com²⁶

CMC. This company is a NYSE-listed steel manufacturer and trader with a global presence.²⁷

54. A known supplier of the Malaysian goods is Alpine Pipe Manufacturing Snd Bhd, Lot 6065, Jalan Haji Abdul Manan, Batu 5^{1/2}, Jalan Meru, 41505 Klang, Selangor Darul Ehsan, Malaysia. Phone 00603 3392 7878 ext 8693. There may be other, non-Alpine Malaysian-made HSS goods in the New Zealand market.

China and Malaysia Industry Excess Capacity and Growth

55. NZS is aware from the public documentation in the Austube Mills Pty Limited application to the Australian Government Anti-Dumping Commission of several other mills, which, according to Austube, are

²⁵ Sheet "Injury Spreadsheet" in file "Hollows Injury Information Spreadsheet [REDACTED] 3.55 p.m. 25.7.17 [the redacted information is personal information]

²⁶ See <http://www.stemcor.com/>

²⁷ See <https://www.cmc.com/en/global/home>

dispatching HSS goods to Australia. NZS is not alleging that these mills are also exporting to New Zealand, although that may be so. The Austube information on the public record is as follows:²⁸

Chinese HSS-Making Mill	HSS Capacity (tonnes p.a.)
Hengshui Jinghua Steel Pipe Co., Ltd	1,200,000
Huludao City Steel Pipe Industrial Co. Ltd	700,000
Qingdao Xiangxing Steel Pipe Co Ltd	1,200,000
Dalian Steelforce Hi-Tech Co Ltd	120,000
Zhejiang Kingland & Pipeline Technologies Co., Ltd	1,780,000
Tianjin Youfa Steel Pipe Co Ltd	850,000

56. The total capacity of the above six mills is 5.9 million tonnes. Public information indicates that in early 2015 China had more than 3,000 steel pipe enterprises, including 2700 welded pipe manufacturers and 300 seamless steel manufacturers, and capacity of steel pipe totalled 110 million tonnes. 65 million tonnes was for welded pipes and 45 million tonnes of other steel pipes. The amount of excess capacity is approximately 30 million tonnes.²⁹

57. The information in the above paragraph and table serves to evidence that the Chinese steel pipe industry is very large, exporting to Australasia, and has very significant excess capacity. It appears that the Chinese steel pipe production is circa 80 million tonnes, or 220,000 tonnes per day. That is, China is making New Zealand's annual HSS demand about every eight hours. Some mills, for example Zhejiang Kingland & Pipeline Technologies Co., Ltd, have an output some 30 times larger (via several individual production lines) than the HSS mill at NZS.

58. The Malaysian steel pipe industry is also growing. A framework cooperation agreement was recently signed between the Sarawak state government, Hebei Xinwuan Steel Group and MCC Overseas Ltd on the proposed development of an integrated steel plant in Sarawak which will result in a steel-making complex comprising a five-million-tonne steel plant, a cement plant, a coke oven plant, a cold rolling plant, and a welded pipe plant in three phases.

59. A new 3.5 million tonne Chinese steel plant, Alliance Steel (M) Sdn Bhd, is currently under construction at the Malaysia-China Kuantan Industrial Park in Kuantan, Pahang. It is a subsidiary of Guangxi Beibu Gulf Iron and Steel Co Ltd from China and will be investing RM4.2bil in a modern integrated steel plant to produce high-carbon steel bars, wire rods, H-shaped steel and steel building materials.³⁰

60. These matters are relevant to this case, because scale and manufacturing growth can assist or encourage deeply marginally-costed runs of product manufactured in an otherwise idle shift. That is the

²⁸ Austube Mills Pty Limited application to Australian Anti-Dumping Commission dated 5 October 2016. At <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-379.aspx> p. 24.

²⁹ <http://www.maxdofs.com/news/2015021275.html>

³⁰ <http://www.thestar.com.my/business/business-news/2017/01/21/>

economics behind unfairly traded dumped goods which the Antidumping Agreement and New Zealand Act exists to condemn.

Investigations addressing Chinese Steel Pipe Products

61. The following investigations are taking place now, or have recently been conducted in other jurisdictions in relation to HSS or very similar goods:³¹

Country Imposing	Case #	Type ³²	Goods	Status
USA	C-570-915	CV	Light-Walled Rectangular Pipe and Tube	In force 2008 Continued
USA	A-570-914	AD	Light-Walled Rectangular Pipe and Tube	In force 2008 Continued
USA	C-570-911	CV	Circular Welded Carbon Quality Steel Pipe	In force 2008 Continued
USA	A-570-910	AD	Circular Welded Carbon Quality Steel Pipe	In force 2008 Continued
EU	AD523 & R589	AD	Welded tubes & pipes of iron or non-alloy steel	In force 2008 Continued
Canada	CAN-AD-356	CV/AD	Certain Carbon Steel Welded Pipe	In force 2008 Continued
Canada	Inquiry Number NQ-2015--2	CV/AD	Carbon and Alloy Steel Line Pipe	In force 2016
Canada	AD1408 / 4214-47 CVD143 / 4218-44	CV/AD	Large Diameter Line Pipe	Initiated on 5 February 2016
Brazil	BRA-AD-314	AD	Carbon-Steel pipes	In force 2013
Turkey	Communique 216/3	AD	Tubes, pipes and hollow profiles	Provisional 2016
Australia	379	CV/AD	Certain Hollow Structural Sections. Continuation	Completed May 2017

62. The 2008 HSS measures imposed by Canada, the United States and Australia have been examined in sunset reviews, and continued.³³

³¹ Source material comprises the Austube Mills Pty Limited application to Australian Anti-Dumping Commission dated 5 October 2016 and ACBPS 379 of May 2017. At <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-379.aspx>; and, Brown, Chad P. (2016) "Global Antidumping Database," The World Bank, June, available at <http://econ.worldbank.org/ttbd/gad/> AND <https://access.trade.gov/>; and <http://www.citt.gc.ca/>; and

³² CV = Countervailing, AD = Dumping.

³³ In respect of Australia see page 7 of <http://www.adcommission.gov.au/measures/Documents/Summary%20Table%20-%20Steel%20and%20Aluminium%20Products%20-%20Measures%20Applied%20-%20By%20Tariff%20Line%20-%207%20September%202016.pdf>

Australian Investigation Discussion

63. The New Zealand Ministry's Australian trade measures counterpart - the Australian Government Anti-Dumping Commission³⁴ - recently concluded several investigations concerning steel goods. As identified in the above table (the last row) it recently investigated steel Chinese and Malaysian goods and economic matters as encompassed in this application. NZS considers that parts of those analyses, process and conclusions are particularly relevant to the New Zealand Ministry's investigation because:

- a) The Australian investigation reports are a source of cogent and reliable information which may properly be taken into account by MBIE in considering this application.
- b) The Australian reports and decisions are about the unfair trading of products which are the same as the steel products encompassed by this application;
- c) The market descriptions of the products are the same, and in many cases the trade names of the goods are also the same;
- d) The tariff classifications are near-same; and
- e) The countries of origin of the products are the same;³⁵
- f) The investigations by the Australian Customs Service were exhaustive and are well documented, and included producer visits. NZS draws MBIE's attention in particular to the Australian Customs Service electronic public records for investigations 177, 190 and 193, each of which contains detailed information about the production of goods that are the subject of this application;³⁶
- g) The Australian investigations have each concluded, in large part, with a finding of dumping margins and subsidies, and have resulted in the imposition of anti-dumping duties and countervailing duties on the products; and
- h) Such imposts in Australia are likely to have a diversionary effect on imports into New Zealand, because the New Zealand market is geographically proximate and the product types (and in many cases the trade names) are the same. NZS has anecdotal evidence that import offers of like products into New Zealand have increased subsequent to the Australian imposition of anti-dumping duties. In this regard in NZS's view the comment in the November 2016 Austube Mills Pty Limited HSS application are salient: Austube said:

³⁴ The division of the Australian Customs Service responsible for administering Australian's anti-dumping legislation was recently renamed the Australian Anti-Dumping Commission: see <http://www.adcommission.gov.au/aboutus/default.asp>.

³⁵ The Australian investigations also included goods from Taiwan and Japan. Those countries are not included in this application.

³⁶ Case information (including copies of investigation reports) for these investigations and the electronic public record for each investigation are available on the Australian Anti-Dumping Commission website.

“Prior to the imposition of measures in 2012 the export price to New Zealand and Australia was comparable. Given Australia and New Zealand share a common structural standard for HSS (AS/NZS1163) and have similar size and coating preferences it is understandable that the export price should be comparable. Following the Australian imposition of measures in July 2012, the export price to Australia and New Zealand quickly diverged, with the absence of measures in New Zealand resulting in the continued reduction of prices at a dumped level into New Zealand. It stands to reason that if measures were allowed to expire the prices would again converge resulting in a return to dumped prices for HSS into Australia.”³⁷

64. NZS invites MBIE to take these Australian findings of dumping into account as contextual evidence.

65. NZS further invites MBIE to consider that some trade environment and policy settings are aligned between Australia and New Zealand, and can bear upon this application. Firstly, NZS notes that Australia and New Zealand are aligned in that both countries have free trade agreements with China and Malaysia. Those two free trade agreements do not preclude or vary WTO-based rights to anti-dumping remedies.

66. Secondly, Australia and New Zealand both recognise China as a market economy - albeit the recognition or otherwise by New Zealand of China as a market economy is not material to the application of the Dumping and Countervailing Duties Act 1988 ³⁸.

³⁷ Austube Mills Pty Limited November 2016 application to the Australian Government Anti-Dumping Commission. At [25].

³⁸ New Zealand’s dumping and countervailing legislation is applied to all WTO members except Singapore and Australia on an equal basis. It specifically does not discriminate for, or against, China based on whether China is, or not, a market economy.

The 14 April 2004 acknowledgement by the New Zealand government that China has established a "market economy system" involved no subsequent change to New Zealand’s then trade remedy policy and no subsequent reduction in protections for the New Zealand domestic economy. It has no effect on New Zealand’s trade remedies legislation and practice. See New Zealand Government press release Wednesday, 3:37 pm 14 April 2004.

For completeness, NZS notes that China’s WTO Accession Protocol of 10 December 2001 (from which China sought, but did not obtain waiver in the New Zealand – China Free Trade Agreement, nor effect waiver by New Zealand elsewhere) contains a provision at section 15(a)(ii) which states: *“The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.”* This clearly puts the onus on the investigating authority to investigate the circumstances of trade in a given sector or industry (i.e. the matter is not one of the national economy, but rather parts therein), within which analysis the burden of proof for market conditions is upon the (Chinese steel in this case) industry.

NZS further notes that section 15(a)(ii) can be terminated by section 15(d) *‘Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member’s national law contains market economy criteria as of the date of accession.* Termination pursuant to section 15(d) is not available because

67. Thirdly, being based on the WTO Anti-Dumping Agreement, the Australian and New Zealand anti-dumping legislation does not materially differ in respect to their treatment of 'market situation' and subsequent recourse to constructed normal value provisions. Australia is most cognate to New Zealand in the field of trade remedies. This is evidenced in the three paragraphs below.

68. The Australian Customs Act 1901 provides that '*the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms-length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods*', however it provides an exception where '(ii) because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)'. In that case, the normal value is a construction of cost pursuant to '*such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export*'.³⁹

69. The New Zealand Trade (Anti-dumping and Countervailing Duties) Act 1988 covers the same ground thus: '*the normal value of any goods imported or intended to be imported into New Zealand shall be the price paid for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods. Then 'the situation in the relevant market is such that sales in that market that would otherwise be relevant for the purpose of determining a price under subsection (1) are not suitable for use in determining such a price; Then 'such amount as is determined by the Secretary to be the cost of production or manufacture of the goods in the country of export*'.⁴⁰

70. Fourth, the New Zealand and Australian governments expect the administration of business rules⁴¹ to be trans-Tasman consistent. That convergence, and the alignment of business rules outcomes is specifically provided for in the inter-Government 'Memorandum of Understanding between the Government of New Zealand and the Government of Australia on the Coordination of Business Law'. That memorandum states:

'Strengthening Coordination

...

2. *Both Governments are committed to the objective of a single economic market in which there is no significant discrimination in the Australian and New Zealand markets arising from differences in the policies and regulations of both countries.*

New Zealand national law did not contain market economy criteria on the 10 November 2001 date of accession.

Section 15 of the above document is at Appendix Three.

³⁹ CUSTOMS ACT 1901 - SECT 269TAC 1 and 2(a)(ii) and 2(c)(i)

⁴⁰ Trade (Anti-dumping and Countervailing Duties) Act 1988 at sec 5(1) and 5(2)(b) and 5(2)(d)(i)

⁴¹ 'business rules' being the rules group within which reside antidumping and countervailing rules.

3. *Both Governments recognise the trend towards increasing international convergence of financial market and business regulation and the need to comply with international standards. Both Governments recognise the benefit of coordination to influence evolving international regulatory standards and regimes.*

Principles

...

8. *Governments have identified the following principles to guide coordination efforts:*
 - b. *Measures should deliver substantively the same regulatory outcomes in both countries in the most efficient manner;*
9. *In giving effect to these principles consideration will be given to:*
 - a. *The desirability of ensuring that a firm will only have to comply with one set of rules and will have certainty as to the application of those rules and the regulator (i.e. Australian or New Zealand) with which it needs to deal*⁴²

71. The above indicates the equivalency of the Australian and New Zealand circumstance. This takes one to an example of the general principle that findings in one jurisdiction (say, New Zealand, with whom Australia's business rules are intended aligned, and vice-versa) should take account of findings in cognate jurisdictions. In the 2008 Australian Hollow Steel Sections case, the Australian Government Anti-Dumping Commission made the following comments:

'In response to the GOC (Government of China – bracket added) submission that the US and Canada findings cannot be used as evidence in support of this application, Customs view is:

...

Australia and Canada's countervailing legislation, both being based on WTO ASCM, are quite similar.

*Although the legislation of Australia and other administrations might differ in some ways in relation to the conduct of countervailing investigations, the findings of other jurisdictions may provide prima facie evidence of the existence of countervailable subsidies, the facts of which will be substantiated during the course of the investigation.*⁴³

72. NZS wishes to draw out and reiterate a thread expressed by the Australian Commission from the last bullet point above. That is, the matter before the New Zealand Ministry in this application is to the above-identified prima facie stage, which is one of at first sight sufficient to uphold. The evidence in this application is to be verified post an initiation.

⁴² <http://dfat.gov.au/trade/agreements/anzcerta/Pages/memorandum-of-understanding-between-the-government-of-new-zealand-and-the-government-of-australia-on-the-coordination-of-bu.aspx> That memorandum replaces the Memorandum of Understanding between the Government of New Zealand and the Government of Australia on Coordination of Business Law signed on 22 February 2006.

⁴³ At <http://www.adcommission.gov.au/cases/Documents/005-CON144.pdf>

73. Lastly, NZS notes that the relevant enquiry under s10 of the Act requires “sufficient evidence” to “initiate an investigation”. Section 10 does not require a finding that the evidence is sufficient to *prove material injury*: as the High Court has confirmed, all that is required at the section 10 phase is sufficient evidence indicating a “likelihood of dumping and material injury, and requiring investigation”.⁴⁴

New Zealand Import Volumes of HSS, and China and Malaysia Share Growth

74. Set out below is the NZS best estimate of HSS import volumes into New Zealand in the period to 30 June 2017 in respect of China and to 31 December 2016 in respect of Malaysia. This is based on the records of codes 7306301911, 7306301921, 7306610019 and 7306610027 from Statistics New Zealand, and a re-cast of codes from 1 January 2017 to 30 June 2017. If the import goods have been correctly coded, all goods in these four codes up to 31 December 2016 are likely to be subject goods - but not all subject goods are likely to be in these four codes.

75. NZS draws attention to the significant difficulty in obtaining correct import volume and value information on which to base this application. There are some over-arching reasons why the goods in the category surrounding the like goods are likely miscoded. In summary, persons effecting coding almost certainly have insufficient product/technical knowledge to correctly code the goods they are examining, or the paperwork available omits some necessary information. It can therefore be difficult to accurately complete the coding task. Correct coding may also be seen as not warranting deep inquiry and a correct outcome because many entire product groups have the same tariff rate. There is no financial gain, or alternatively cost, from coding the goods correctly. With that backdrop it can be in the vernacular ‘convenient’ for a coder to turn to a code which on the surface appears correct but which on deep examination may not be correct. Such inadvertently incorrect coding within a group is not circumvention or occurring for improper reason but is almost certainly taking place. The Ministry has been offered some specific documentary evidence of this in relation to rebar at paragraph 88 of the Pacific Steel 18 November 2016 AD/CVD application.

76. The change in Q1 2017 to add a very large number of new HSS codes and cease the use of older codes has made this already vague circumstance more difficult. Since January 2017 coders have had to select a new code from among the newly available list. They will have made that decision on the basis of limited information, compounded by the fact that some codes are not able to be confidently used.

77. In regard to the latter NZS points to a series in 7603 which contain a description of goods which are “seamless and welded” which is an impossibility as HSS goods are either seamless or welded (the NZS description does not include seamless), or codes with something indecipherable on the description – for example a square or rectangle described by internal diameter in code 7306610037. Squares and rectangles do not have a diameter. Only circles have a diameter.

78. The NZS process to work back to the four codes used to 31 December 2016 individually examines all 118 codes in the six 6-digit code groups where the subject goods should reside (although even that may miss some subject goods), then omit any of the 118 those on a ground which should disqualify the goods or make use of the ten-digit code unnecessary. The six code groups are 730619, 730630, 730660, 730661, 730669 and 730690. From those 118, 47 were omitted as they had nil volume in F15 to F17. 9 were then deleted as they are stainless steel. 1 was then deleted as it is for goods >229mm. 7 were then deleted as the goods are of the unusable description “welded and seamless (W&S)”. 3 were then deleted as the goods unit values were too high to be subject goods. 25 were then deleted as the goods were boiler tube, high pressure

⁴⁴ Kerry (New Zealand) Limited v Comptroller of Customs (1988) 3 TCLR 265 at 275. Note that this decision was made pursuant to the predecessor of the 1988 Act, the Customs Act 1966.

conduit, was W&S, or the ID was >229mm. That left 26 codes which are most likely the goods either pre or post January 2017. The import datafile includes 26 codes.

79. In 2017 however, the 22 codes then live (4 having not survived into 2017) do not contain a goods dimension matching the goods description.

80. NZS further observes that the China values in the 2017 codes have unusually high unit values (some are >20% higher than the supposedly same Malaysian goods). This may be due to any number of reasons, including, perhaps, off-invoice rebates not being taken to effect in the Statistics New Zealand information, or the goods value including fittings such as the clips and bracketry used for scaffolding.

81. NZS has made a reasonable attempt to analyse the facts as they present⁴⁵, but is concerned that, in particular, the Chinese import prices in 2017 are erroneously high and the Malaysian import volume is erroneously low. NZS requests of the Ministry that it examines and verifies individual import goods documentation. This matter is very important and this work will be necessary for any case findings on margins and import levels to be sound.

82. In respect of Malaysia, NZS notes two particular issues:

83. First, its assessment cannot confidently review Malaysian data in respect of either volume or value beyond 31 December 2016. The data series beyond that is grossly discontinuous. That does not match NZ-side market information which is that Malaysia has a material and growing share. NZS does not know which of the new codes is being used for the significant volume of Malaysian HSS being exported to New Zealand.

84. Second, the Malaysian volume into New Zealand using TradeMap Malaysian-side export data to New Zealand (a continuously-coded data series using 730630, 730660 and 730661) shows that F16 Malaysia dispatched 2,062 tonnes of those HSS goods to New Zealand. Malaysian growth since then however, has been very significant. 2016 was 4,319 tonnes. On a 9 months to 31 March 2017 annualised basis, Malaysia dispatched 6,218t of HSS to New Zealand in F17. These volumes are very significant. F17 annualised is 2.97 times the F16 level. Even if only half of the Malaysian volume in (say) 2016 is subject goods, the Malaysian share of New Zealand imports of the goods would be circa 10%⁴⁶, behind only China and Australia. NZS has therefore assessed Malaysia's F17 import volume share by taking the four-code Malaysian share in F16, increased by 2.97 times into estimated four-code F17.

85. The resulting figure for Malaysia in F17 is 704t. That volume is considered conservative because TradeMap's record for Malaysian HSS to New Zealand is 4,596t in the first 9 months of that financial year.

86. The import volumes of the goods from China significantly exceed the negligible individual 3% share of all imports in the period to end Q1 2017. In F16 and into F17 the China share is estimated at 71%. It has risen steadily to that level. The China HSS import volume function since F11 illustrates steady volume growth, being $y = 1072.1x + 4433.7$ $R^2 = 0.8407$. The function since F08 is similar. In that year the Chinese HSS had a 5.8% share on New Zealand HSS imports. The volume function from F08 to F16 is a near linear $y =$

⁴⁵ NZS notes that the Ministry prefers export data to be as recorded, not as may be estimated. For that reason, the unusually high Chinese 2017 values are presented as is.

⁴⁶ If the total New Zealand imports of the subject goods in 2016 was 20,000t and only half of Malaysia's 2016 volume of 4,319t was subject goods, then the Malaysian share of all New Zealand imports in 2016 would be 11%.

$1200.3x + 298.47 R^2 = 0.9521^{47}$. The Chinese share of imports function is $y = 0.0799x - 0.0401 R^2 = 0.9256$. In NZS's view, these functions positively evidence the growing share and presence in the New Zealand HSS market of the injurious Chinese-made HSS.

87. Other countries known to have exported HSS to New Zealand in recent years are: Australia, Austria, Belgium, Canada, Chile, Czech Republic, Finland, France, Germany, Hong Kong, Hungary, India, Italy, Japan, Korea, Mali, Mexico, Netherlands, Poland, Singapore, South Africa, Sweden, Switzerland, Taiwan, Thailand, United Arab Emirates, United Kingdom and the United States of America. However, the volumes of these imports – even taken together – remain small compared to the volume of imports from China and Malaysia.

88. Set out below is estimated HSS import data in financial years. Malaysia F17 704t is 237t times 2.97. F17 also assumes carry-forward into that year the use of the continuous code volumes up to 31 December 2017 for China and others.

Period	F12	F13	F14	F15	F16	F17e ⁴⁸	F17e
Coverage	12 Months to 30 June '12	12 Months to 30 June '13	12 Months to 30 June '14	12 Months to 30 June '15	12 Months to 30 June '16	12 Months to 30 June '17	12 Months to 30 June '17
China (t)	6,912	8,657	8,146	10,739	9,987	10,979	69%
Malaysia (t)	279	292	359	409	237	703	4.4%
Others (t)	11,440	9,209	13,762	5,287	3,744	4,245	27%
Total (t)	18,631	18,157	22,267	16,436	13,968	15,927	100%

89. Set out below is the above data by the five/seven most recent quarters.⁴⁹ China volume is estimated further out to end F17. Malaysia is not estimated into by quarters 2017 for the reasons given at paragraph 81.

Period	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)	Q1-2017 (Q3 of F17)	Q2-2017 (Q4 of F17)
China (t)	2,965	2,257	2,235	2,530	3,100	3,114	1,291	1,480
Malaysia t	50	31	99	56	133	102	-	-
Others (t)	1,087	554	1,007	1,096	986	1,156	-	-
Total (t)	4,102	2,842	3,341	3,682	4,218	4,372	-	-

⁴⁷ Sheet "Table" in file "NZ Hollows Imports 30.11.16".

⁴⁸ This entire table is an estimate, however attention is drawn in this and the right hand column to the Malaysia 703t estimate described above. That figure (4.4%) is nonetheless considered low. NZS considers that the Malaysian HSS share of imports is circa 11%. That is described at footnote 46.

⁴⁹ Sheet "Matrix" in file "Quarterly 4.10.17 HarmonisedTradeImports_20171004_031650_50_20171004_032914_98.xls" at row 1034.

China's New Zealand-Destined HSS Export Price

90. Set out below is detail of the NZS estimate of most recent seven quarters estimated export prices to New Zealand. Source data obtained from Statistics New Zealand. Exchange rate conversions are at New Zealand Customs rates of exchange.⁵⁰ The export prices below (from which adjustments back to ex-works will be made) comprise one of the two figures underlying the dumping margin calculations.⁵¹

Period	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)	Q1-2017 (Q3 of F17)	Q2-2017 (Q4 of F17)
China VFD in NZ\$/t	1,031	1,073	967	951	1,010	1,006	1,056	1,070
China VFD in US\$/t	679	692	629	642	710	704	732	733
China CIF in NZ\$/t	1,146	1,181	1,086	1,070	1,122	1,108	1,165	1,171

91. The average China VFD in F16 and F17 is US\$690 per tonne.

92. The New Zealand Customs-sourced data above is at VFD which is only "approximately" equivalent and therefore only approximately contiguous with the exporter-side export price adjustment evidence which is FOB-based. Positive evidence of that "approximately" qualifier is shown in the below except from the source-data portal.⁵²

VFD	Imports are all material goods which enter New Zealand from abroad and are valued 'VFD' (value for duty) and 'CIF' (cost, insurance and freight). VFD is the value on which customs duty is based. It equates approximately with the free on board (FOB) cost of the goods in the exporting country.
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93. The potential VFD-FOB "approximately" error is not considered material in this case.

Malaysia's New Zealand-Destined HSS Export Price

94. Set out below is detail of the NZS estimate of most recent six quarters estimated export prices to New Zealand. Source data obtained from Statistics New Zealand. Exchange rate conversions are at New Zealand Customs rates of exchange.

Period	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)
Malaysia VFD in NZ\$/t	1,168	1,145	916	918	962	921
Malaysia VFD in US\$/t	769	738	596	620	676	644
Malaysia CIF in NZ\$/t	1,207	1,180	926	987	998	945

⁵⁰ File "Quarterly 4.10.17 HarmonisedTradeImports_20171004_031650_50_20171004_032914_98.xls"

⁵¹ Sheet "Dumping" in file "Hollows Excel F16 and F17 3.10.17".

⁵² See <http://www.stats.govt.nz/infoshare/Help/further-help.asp>

Export Price Deductions

95. NZS has deducted from the above the estimated costs between VFD and ex-factory incurred by the exporter in preparing the goods for shipment to New Zealand, and made other relevant adjustments to ensure fair comparison with normal values which are at ex-works.

96. NZS sourced China-side information from [REDACTED] in September 2016. The elements of this China cost on a per tonne basis if a shipment comprised [REDACTED] containers (this is because six of the ten cost elements are per shipment, not per container) are: Credit US\$ [REDACTED] to \$ [REDACTED], Packaging US\$ [REDACTED], Cartage at origin US\$ [REDACTED], Terminal Handling Charges US\$ [REDACTED], Port Service Fee US\$ [REDACTED], Terminal Security Fee US\$ [REDACTED], Equipment Management Fee US\$ [REDACTED], Manifest Fee US\$ [REDACTED], VGM Fee US\$ [REDACTED], Documentation Fee US\$ [REDACTED], Handling Fee US\$ [REDACTED], Customs Export Fee US\$ [REDACTED]. The Malaysia cost estimation follows this with the exception of credit where the values range is \$US [REDACTED] to US\$ [REDACTED] per tonne. [The redacted information in this paragraph comprises various individual trading/cost values and is commercially sensitive because it would provide a competitor with a competitive advantage.]

97. Set out below are the consequential Malaysian and Chinese export prices at ex-works.

Period	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)	Q1-2017 (Q3 of F17)	Q2-2017 (Q4 of F17)
China in US\$/t at ex-works	649	662	599	612	680	674	701	702
Malaysia in US\$/t at ex-works	738	707	566	590	646	614		

EVIDENCE OF DUMPING

Normal Value in Exporter's Domestic Market – China

98. By way of general backdrop, NZS notes that McKinsey and Company analysis offers some cashflow-related insight to the recent performance of the steel industry being generally unprofitable and not in the ordinary course of trade. Sustained periods of negative cashflow are synonymous with not in the ordinary course of trade, because the former threshold is the point which may trigger closure of the operation. McKinsey calculate that in 2012, 56% of steel manufacturers had negative cash flow (measured as total operating cash flow minus capital expenditures minus interest expenses). NZS submits that the 2012 average negative cashflow circumstance which McKinsey points to is now worse. The 2002 to 2012 trend in that cashflow measure is $y = 3.3455x + 12.109$. The average net debt to EBITDA ratio is also trending adversely over that period. It is $y = 0.1873x + 0.9218$. The data is below.

Measure / Year	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12
World steel operating with negative cashflow (%)	33	18	13	22	22	17	34	62	36	41	56
Net Debt to Equity (ratio)	3	1.9	0.8	0.7	0.9	1	1.5	3.1	2.4	3	4.2

99. Turning to the specific, NZS has used the constructed selling price method of establishing Chinese HSS normal values. NZS has two reasons for doing so.

100. First, in reliance on section 5(2)(a) of the Act because NZS has not been able to obtain relevant local China prices. Domestic selling price information is considered commercially sensitive by manufacturers and as a result is not available to other parties due to potential breach of supplier-customer commercial arrangements. NZS has nonetheless examined steel industry newsletters and web publications (including SBB, MEPS, Steel Orbis, Kallanish Steel, etc), in an attempt to obtain domestic selling prices for HSS in China. Domestic selling prices for HSS at a relevant level of trade do not appear to be published and on that ground recourse can be had to a construction of the normal value for the goods in China.

101. As an aside to that conclusion, some price information of an export orientation can be found, but shows considerable variation. That level of variation too, would challenge the reliability of any China domestic prices that might be obtained. This consideration is evidenced in the below screenshot showing a price range on Chinese-source galv steel HSS of between US\$450 and US\$1,000 per tonne.



102. Second, because in NZS's view, the situation in the Chinese steel industry gives rise to section 5(2)(b) of the Act. NZS considers that there is an absence of relevant and suitable sales in the ordinary course of trade. NZS considers that the well-established and continued intervention by the Government of China

(GOC) in the Chinese iron and steel industry has distorted the prices of HSS and other precursor steel goods such as HRC feed which is used to make HSS. NZS is of the view that this situation has occurred during and prior to the likely investigation period.

103. Substantial evidence in support of the contention in paragraph 76 exists, some of which is contained in reports published by economic commentators, and some in applications to and the reports of, counterparts of the Trade and International Environment Branch of the New Zealand Ministry.

104. In particular, the Australian Anti-Dumping Commission has previously found that a 'market situation' (that is, the conditions encompassed by section 5(2)(b) of the Trade (Anti-dumping and Countervailing Duties) Act 1988 which is mirrored in section 269TAC(2)(a) of Australia's Customs Act 1901) exists in relation to hollow structural steel sections and also determined that prices in the domestic market for galvanised steel and aluminium zinc coated steel and hot rolled plate steel were unsuitable for the determination of normal value for the same reasons.⁵³ This is reported in Austube Mills Pty Ltd's application to the Australian Commission dated 5 October 2016. Austube ("ATM") said:

*"Investigation No. 177 determined that the cost of manufacture of HSS in China did not reasonably reflect competitive market costs associated with the production or manufacture of the goods for the purposes of Regulation 439. Normal values for HSS exported from China therefore could not be determined using domestic selling prices in China under s.269TAC(1) of the Customs Act 1901"*⁵⁴

The then Customs and Border Protection determined:

...the costs incurred by HSS manufacturers in China for HRC and narrow strip used in the investigation period do not reasonably reflect competitive market costs in terms of Regulation 180(2).11

It was further determined by Customs and Border Protection that a 'particular market situation' applied to HSS in China (s.269TAC(2)(o)(ii)). Normal values, therefore, were determined on a constructed cost methodology using the exporters' production costs. Customs and Border Protection replaced the cost of hot-rolled coil ("HRC"), the semi-finished raw material input used along with narrow strip for pipe & tube production, for each Chinese exporter with reference to a 'benchmark', determined to be the weighted average domestic HRC costs incurred by verified selected co-operating HSS exporters from Korea, Malaysia and Taiwan.

In the recent review of measures inquiry No. 28512 involving exports of HSS to Australia by Dalian Steelforce HiTech Co., Ltd the Commission re-affirmed the Customs and Border Protection's findings contained in Report No. 177 that a particular market situation continued to apply to HSS in China. The Commission determined that the costs of HRC provided by Dalian Steelforce relating to the review period did not reasonably reflect competitive market prices. In this case the benchmark price was based on pricing from a reputable independent source for Korea and Taiwan.

⁵³ See Australian Anti-Dumping Commission REP 177, REP 190 and REP 198.

⁵⁴ EPR Folio 177, p 39.

ATM contends that a particular market situation continues to apply to HSS sold in China during 2016. Domestic selling prices for HSS in China are therefore artificially low and not suitable for determining normal values. ATM has adopted a constructed cost methodology for determining normal values for HSS in China (for 2015/16 year)."

In 379 of May 2017, the APBPCS has upheld the above view.⁵⁵

105. Further support for the view that the circumstances in the Chinese steel industry (which includes the manufacture of steel pipe goods) give rise to section 5(2)(b) of the Act can be found in some recent Australian Commission work on the reinforcing bar sector of the Chinese steel industry pursuant to an application to it by OneSteel Manufacturing Pty Limited dated 12 May 2015. The Final Report in this matter was published on 13 April 2016. NZS concurs with the Australian Government Anti-Dumping Commission conclusion that the domestic price for Chinese rebar was influenced by the Chinese Government to a degree which makes domestic sales of rebar unsuitable for use in determining normal values. This is because the elements of China Government steel industry plans, involvement and management do not appear to discriminate between rebar makers as opposed to tube or flat steel makers. The Commission's summary following their analysis is as follows:

"Based on the proceeding analysis, the Commission has concluded that the Chinese Government materially influenced conditions within the Chinese rebar market during the investigation period. The mechanisms through which the Chinese Government exerted this influence include government directives and oversight, subsidy programs, taxation arrangements and the significant number of state owned steel companies.

*The Commission also concludes that because of the significance of this influence over the Chinese rebar market, the domestic price for Chinese rebar was substantially different to what it would have been in the absence of these interventions by the Chinese Government. Based on this analysis, the Commission has determined that during the investigation period the domestic price for Chinese rebar was influenced by the Chinese Government to a degree which makes domestic sales of rebar unsuitable for use in determining normal values under subsection 269TAC(1)."*⁵⁶

106. The sources used by applicant OneSteel Manufacturing Pty Limited were:

- *National Steel Policy (2005).*
- *Blueprint for the Steel Industry Adjustment and Revitalisation (2009).*
- *National and regional Five-Year Plans and guidelines.*
- *The 12th Five-Year Plan: Iron and Steel (2011-2015 Development Plan for the Steel Industry).*

⁵⁵ ACBPCS 379 at [17-18].

⁵⁶ At <http://www.adcommission.gov.au/cases/EPR%20251%20%20300/EPR%20300/063%20-%20REP%20300.pdf> p 100. The material on market situation is at [84 – 100].

107. The Australian Government Anti-Dumping Commission rebar-related summary is built on the following material:

- *OneSteel's application for the publication of dumping and/or countervailing duty notices concerning steel reinforcing bar exported from the People's Republic of China.*
- *Previous investigations undertaken by the Commission in relation to the Chinese steel industry.*
- *An investigation into 'certain concrete reinforced bar' originating from the People's Republic of China undertaken by the Canada Border Services Agency (CBSA).⁵⁷*
- *Information obtained through the Australian Commission's research and analysis.*

108. The outcome of the above work by the Australian Commission on rebar is that a constructed normal value was used, built on semi-finished billet feed (used to convert into rebar) costed into the construction from Latin American⁵⁸ semi-finished billet prices from a reputable industry pricing source. Semi-finished steel billet is to reinforcing bar, as Hot Rolled Coil ("HRC") is to HSS.

109. A recent report authored by the Australian Government Anti-Dumping Commission provides further guidance as to the nature of Chinese government involvement in its domestic steel industry⁵⁹. This report addresses that topic directly, and its conclusion is clear - being that Chinese government policies have distorted domestic China steel prices and profitability, such that the conditions in the New Zealand Act at section 5(2)(b) will be met. Material from the Australian report is provided at Appendix One. Summary statements from that report addressing section 5(2)(b) of the Act include:

"Many of the policies adopted by Asian governments would meet the OECD's definition of being market distorting in that they have the effect of sustaining ongoing overcapacity by supporting the building of new capacity or keeping inefficient facilities in operation.

By altering the VAT rebates or export taxes applied to steel exports, the Chinese Government has altered the relative profitability of different types of steel exports and of exports compared to domestic sales. This has changed steel producers' relative incentives to sell steel

⁵⁷ Canada Border Services Agency (CBSA), December 2014, Statement of Reasons: Concerning the final determinations with respect to the dumping of 'Certain concrete Reinforcing Bar Originating in or Exported From The People's Republic of China, The Republic of Korea and The Republic of Turkey; and the subsidizing of 'Certain Concrete Reinforcing Bar Originating In Or Exported From the People's Republic of China'; and the terminations of the investigation with respect to the subsidizing of 'Certain Concrete Reinforcing Bar Originating In Or Exported From The Republic of Korea and The Republic of Turkey.

⁵⁸ Initial work in that investigation used Turkish export billet prices, but the Final Report used Latin American prices.

⁵⁹ <http://www.adcommission.gov.au/adssystem/referencematerial/Documents/MASTER%20-%20Steel%20aluminium%20report%20%20-%2031%20August%202016%20-%20for%20public%20release.pdf>

products in domestic compared to export markets. Through these mechanisms for altering the relative supply of particular steel products in the domestic market, the Chinese Government has been able to influence the domestic price for those products.

The Chinese Government also influences the domestic price for steel products through the application of export taxes on Chinese billets, which accounts for a significant proportion of the cost of steel fabricated products.

While there is limited transparency about the operations of Chinese state-owned corporations, the Commission understands that these companies can receive loans at less than commercial rates, that dividend policies can be set to pursue government objectives and that extended periods of lossmaking may be tolerated—all of which reduce the normal commercial pressures for companies to operate efficiently and for poorly performing firms to cut back or cease operations.”

110. NZS believes that the views of the Australian regulator are particularly salient – notably because of near-identical New Zealand/Australia trade remedies legislation, and because both New Zealand and Australia consider China to be a market economy.

111. NZS nonetheless considers other regulators who hold a national (as opposed to discrete, subsector by subsector) view regarding market economics are relevant, in part because, on the facts, they too observe some industry subsector economic behaviour in Chinese steel as not being in the ordinary course of trade. Canada, for example, conducted a China rebar dumping and subsidizing investigation in 2014.⁶⁰ Canada examined much of the same Chinese documentation as Australia. Following that examination, the Canada Border Services Agency (CBSA) observed as follows:⁶¹

{124} The President of the CBSA has issued opinions in respect of the following steel sectors in China that domestic prices are substantially influenced by the GOC and that they are not substantially the same as they would be if they were determined in a competitive market:

Wire rod sector - Certain galvanized steel wire (2013)

Steel pipe sector - Certain piling pipe (2012)

Oil country tubular goods sector - Certain pup joints (2011)

Hot-rolled steel plate sector - Certain hot-rolled carbon steel plate and high strength low alloy steel plate (2010)

Flat-rolled steel industry sector - Certain flat hot-rolled carbon and alloy steel sheet and strip (2010)

⁶⁰ Relevant material is at paragraphs 94 to 144 of the complaint filed by ArcelorMittal LCNA, Gerdau Longsteel North America and Alta Steel Inc. of 14 April 2014. ‘The Dumping and Subsidization of Rebar Originating in or Exported from the People’s Republic of China, the Republic of Korea and the Republic of Turkey.’

⁶¹ Statement of Reasons, December 23, 2014, 4214-42 AD/1403, 4218-39 CV/138.

Welded pipe sector - Certain carbon steel welded pipe (2008 & 2011)

Oil country tubular goods sector - Certain oil country tubular goods (2010) Oil country tubular goods sector - Certain seamless carbon or alloy steel oil and gas well casing (2008)

[125] These numerous opinions indicate that the GOC exerts control over the Chinese steel industry, which encompasses the long products steel sector, including the concrete reinforcing bar industry.'

[126] The wide range and material nature of the GOC measures have resulted in significant influence on the Chinese steel industry including the long products steel sector, which includes concrete reinforcing bar. Based on the preceding, the President is of the opinion that: domestic prices are substantially determined by the GOC; and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.⁶²

112. As further positive evidence of the Chinese steel industry being structured such that it does not exhibit prices in the ordinary course of trade or competitive market conditions, NZS notes that World Steel Dynamics recently observed that pricing on hot-rolled steel band (NZs refers to this product as "HRC") was being traded at '*... more than \$50 below the marginal cost of the median producer*'.⁶³ That mention is relevant to this case because HRC is the semi-finished steel product feed used to manufacture HSS, in the same manner as billet is the semi-finished steel product feed which is used to manufacture reinforcing bar and coil.

113. Reuters recently offered analysis which concurs the industry structure and economic supporting the matter observed by WSD. Reuters said:

"Subsidies accounted for four-fifths of the profits reported by Chinese steel companies in the first half of this year, a dramatic increase in reliance on state support that illustrates starkly the industrial weakness that is an increasing drag on the economy.

The headwinds faced by China's massive steel sector - falling profit margins and growing dependence on handouts - are shared by other key industrial and infrastructure-related sectors, including aluminium, cement and coal.

A Reuters analysis of first-half financial statements from 77 listed Chinese steel, aluminium and cement companies revealed a sharp deterioration in profitability.

For the first half of 2013, subsidies accounted for 22 percent of total profits posted by China's listed steel mills, and reached 47 percent in the full year. In the first six months of 2014, the figure jumped to 80 percent, and, even then, the sector's profit margin halved to just 0.3 percent.⁶⁴

⁶² <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1403/ad1403-i14-fd-eng.pdf> at paragraphs 124 to 126.

⁶³ World Steel Dynamics, Inside Track #141 July 29 2015.

⁶⁴ At <http://www.dailymail.co.uk/wires/reuters/article-2761497/Steel-industry-subsidy-life-support-China-economy-slows.html#ixzz3jhUmKqDp>

114. Baosteel president of economics and research, Mr Dongying Wu, commented to the Worldsteel-49 conference in Chicago on 12 October 2015 that the 100 Chinese steel companies surveyed by Baosteel had incurred a collective loss of Yuan 20 billion (US\$3.1 billion) over January-August 2015. This is consistent with Chinese steel pricing not being in the ordinary course of trade⁶⁵.

115. The Ministry counterpart in Canada – the Canada Border Services Agency (“CBSA”) – also offers very recent insight regarding Chinese domestic steel prices does not being in the ordinary course of trade or under competitive market conditions. The CBSA commented extensively in regard to the Chinese Government influence on steel prices in China on 5 October 2016. The CBSA said:

Summary of Government Influence on Domestic Prices

[116] Based on the information on the record, the scope of the GOC’s macro-economic policies and measures indicates that the GOC is influencing the Chinese steel industry, which encompasses the steel pipe sector including large line pipe. The use of such policies and measures can dramatically change the demand and supply balance in the domestic market and could influence the domestic prices of steel products such as steel pipe and large line pipe.

[117] In addition to the GOC’s actions to eliminate obsolete steel production and reduce energy-emissions, the GOC has clearly identified its plans for mergers and acquisitions. The GOC calls for provincial, autonomous regional and municipal governments to focus on formulating and reporting 2010 2011 iron and steel enterprise merger and restructuring plans to be organized, upon approval by the Ministry of Industry and Information Technology. The GOC directs that the implementation/improvement of policies for promoting mergers and restructuring be improved. These are compelling facts that the GOC is firmly in charge of the reform of the Chinese steel industry which encompasses the steel pipe sector including large line pipe.

[118] The cumulative impact of the GOC’s numerous macro-economic policies and measures, including the National Steel Policy, the Steel Revitalization/Rescue Plan, the 12th Five-Year Development Plans for the Steel Industry and the 12th Five-Year Plan for the Steel Pipe Industry, its ownership of a significant portion of the steel industry and export controls on steel products and steel inputs have resulted in an environment where enterprises have conflicting objectives. The GOC objectives are likely to conflict with the commercial objectives of steel pipe producers, affecting products produced, production volumes and ultimately prices.

[119] The cumulative impact of these GOC measures and control indicate that prices of large line pipe in China are being indirectly determined by the GOC.⁶⁶

⁶⁵ At From: *Platts Info [mailto:info.metals@platts.com] Sent: 13 October 2015 13:02 Subject: SBB Daily Briefing - 13 Oct 2015.

⁶⁶ Dumping: AD1408 / 4214-47 Subsidy: CVD143 / 4218-44 Large diameter carbon and alloy steel line pipe Statement of Reasons Ottawa, October 5, 2016 Dumping and Subsidy Final Determinations concerning Large Line Pipe from China and Japan.

The Ministry may examine the material on whether the Chinese steel industry being structured such that it does not exhibit prices in the ordinary course of trade or competitive market conditions commencing between pages 12 and 22.

116. Lastly, NZS refers to a recent world steel review which supports the view that significant Chinese government intervention continues to take place in the Chinese steel industry. NZS submits that marketplace intervention is consistent with the view that market forces (and therefore prices) will not in China be in the ordinary course of trade. The Wiley Rein publication of title “Government Intervention and Overcapacity in the Global Steel Industry” dated April 2016 is a useful review⁶⁷.

117. NZS notes that the conclusions in that report follow examination of Chinese-origin material. For example and without limitation, Chinese documents such as “Several Opinions of the State Council Regarding Hastening the Development of the Circular Economy” (国务院关于加强发展循环经济的若干意见), Guo Fa [2005] No. 22 (July 2, 2005), various annual reports of Chinese-owned steel companies such as Baosteel and Maanshan Iron and Steel, and the “Opinion of the State Council Regarding Resolving Overcapacity in the Steel Industry and Realizing Development that Relieves Hardship” (国务院关于钢铁行业化解过剩产能实现脱困发展的意见), Guo Fa [2016] No. 6 (Feb 1, 2016).

China Constructed Normal Value for HSS

118. In light of the matters discussed above which is reasonable evidence that the Chinese steel industry is structured such that it does not exhibit prices in the ordinary course of trade or competitive market conditions, NZS has used the constructed method of establishing Chinese normal values for HSS - as provided for at sections 5(2)(a) <reliable local sales data not being available>, 5(2)(b) <even if it were available that data would not be reliable> and 6 of the Act. Set out below is detail of that construction. This has been developed using NZS and other cost information making due allowance for differences in costs between New Zealand and Chinese manufacture of HSS.

China Cost Element (USD per tonne) (in calendar quarters)	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)	Q1-2017 (Q3 of F17)	Q2-2017 (Q4 of F17)
HRC av. Korea, Taiwan dom.								
HRC costs to mill								
Grade premium								
HRC handling								
HRC inventory								
HRC subtotal								
HRC post yield								
Less scrap credit								
Conversion								
SGA	26	25	24	28	29	29	33	31
Distribution	-	-	-	-	-	-	-	-
Subtotal	777	751	739	844	864	876	992	940
Profit	23	22	22	25	26	26	29	28
Constructed Normal Value	800	773	760	869	890	902	1,022	968

[The redacted information in this table comprises various trading/cost values and is commercially sensitive because it would provide a competitor with a competitive advantage.]

⁶⁷ http://www.wileyrein.com/media/publication/204_Unsustainable-Government-Intervention-and-Overcapacity-in-the-Global-Steel-Industry-April-2016.pdf See section on China commencing at [13].

119. Detail of the China constructed normal value cost items in the above table is as follows:

- a) The cost of Hot rolled coil feed material from which HSS is manufactured is based on information from [REDACTED]. It is a monthly average of the Korean and Taiwan domestic prices in US\$ per tonne at the relevant exchange rate, into quarters.⁶⁸ This source of input to the constructed normal value is consistent with the approach accepted by the Australian Government Anti-Dumping Commission. *[The redacted information in this paragraph is an entity name and is commercially sensitive.]*
- b) HRC costs to mill is an estimate based on internal NZS information.
- c) Grade premium is assumed nil.
- d) HRC handling is a nominal amount based on costs to track and sort incoming HRC coil feed. This matter arises due to the finished HSS goods mechanical properties being related to the properties of the HRC from which it is made.
- e) HRC inventory is an estimated nominal amount to hold necessary coil feed.
- f) Yield is the NZS F16 average on prime HRC from its production records.
- g) Scrap credit is the NZS F16 average on prime HRC from its production records.
- h) Conversion is the sum amount based on analysis of thirteen row items in the NZS F16 cost report covering electricity, gas, coating, labour (four categories thereof), services, consumables, indirect plant-related recharges (utilities, technical, procurement etc), other fixed costs and depreciation. Each item has been individually examined to assess (with evidence where that is available such as at <https://www.ovoenergy.com/guides/energy-guides/average-electricity-prices-kwh.html> etc) an estimated difference between in-NZ manufacture of HSS and in-China manufacture of HSS. Converted to US\$ at the relevant exchange rate.
- i) SGA based on average Angang, Baoshan and Maanshan 2010 to 2016 accounts as a % of COS.
- j) NZS submits that the justifiable allowance for profit is a 17% EBITDA margin. That is the level indicated by global management consulting firm McKinsey & Company to be required for long-term steel mill sustainability⁶⁹. The calculations above however, use a materially lower

⁶⁸ Sheet "HRC2" in file "Hollows 2016 Excel F16 5.7.17".

⁶⁹ "Laying the foundations for a financially sound industry" Steel Committee meeting Paris, December 5th, 2013 at p 5 and p 7.

level being the average 2.953% operating profit of the Chinese steel makers Angang, Baosteel and Maanshan in the years F10 to 2016.⁷⁰

Malaysia Constructed Normal Value for HSS

120. NZS has used the constructed normal value method of determining the normal value of the goods in Malaysia. It has done so first in reliance on section 5(2)(a) of the Act because NZS has not been able to obtain relevant local Malaysian prices. Domestic selling price information is considered commercially sensitive by manufacturers and as a result is not available to other parties due to potential breach of supplier-customer commercial arrangements. NZS has nonetheless examined steel industry newsletters and web publications (including SBB, MEPS, Steel Orbis, Kallanish Steel, etc), in an attempt to obtain domestic selling prices for HSS in Malaysia. Domestic Malaysian selling prices for HSS at a relevant level of trade do not appear to be published.

121. The constructed normal value NZS has also used in reliance on section 5(2)(b) of the Act - even if local market pricing could be found, it would be unreliable. This arises due to concerns about apparent wide variation of Malaysian HSS export prices. Some FOB Malaysian export prices have been located which show very large ranges which appear likely to reflect wide range in domestic Malaysian pricing. For example HSS goods being offered to a spread 30% above the lower figure.

122. Set out below is detail of the Malaysian construction. This has been developed using NZS and other cost information making due allowance for differences in costs between New Zealand and Malaysian manufacture of HSS.

Malaysia Cost Element (USD per tonne) (in calendar quarters)	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)
HRC feed						
HRC costs to mill						
Grade premium						
HRC handling						
HRC inventory						
HRC subtotal						
HRC post yield						
Less scrap credit						
Conversion						
SGA	53	51	51	53	57	57
Distribution	-	-	-	-	-	-
Subtotal	815	777	783	807	869	871

⁷⁰ Maanshan's reports (NZS has used page 81 of 2010, page 97 of 2012, page 86 of 2014 and page 97 of 2016) can be found at <http://www.magang.com.hk/eng/report.asp>

Angang's reports can be found at <http://angang.wspr.com.hk/> Angang pages used are: page 87 of 2010, page 96 of 2012, page 111 of 2014 and page 157 of 2016.

Baosteel reports are at http://www.baosteel.com/group_en/contents/2942/40191.html Baoshan documents beyond Q1 2015 are not posted. NZS has used page 62 of Baoshan's 2010 report, page 50 of 2012, page 55 of 2014 and page 14 of the Q1 2015 report.

Malaysia Cost Element (USD per tonne) (in calendar quarters)	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)
Profit	49	47	47	49	52	53
Constructed Normal Value	865	824	831	855	922	924

[The redacted information in this table comprises various trading/cost values and is commercially sensitive because it would provide a competitor with a competitive advantage.]

123. Detail of the Malaysia constructed normal value cost items in the above table is as follows:

- a) The cost of Hot Rolled Coil feed material from which HSS is manufactured is based on Malaysia costs.⁷¹
- b) HRC costs to mill is an estimate based on internal NZS information.
- c) Grade premium is assumed nil.
- d) HRC handling is a nominal amount based on costs to track and sort incoming HRC coil feed. This matter arises due to the finished HSS goods mechanical properties being related to the properties of the HRC from which it is made.
- e) HRC inventory is an estimated nominal amount to hold necessary coil feed.
- f) Yield is the NZS F16 average on prime HRC from its production records.
- g) Scrap credit is the NZS F16 average on prime HRC from its production records.
- h) Conversion is the sum amount based on analysis of thirteen row items in the NZS F16 cost report covering electricity, gas, coating, labour (four categories thereof), services, consumables, indirect plant-related recharges (utilities, technical, procurement etc), other fixed costs and depreciation. Each item has been individually examined to assess (with evidence where that is available such as at <https://www.ovoenery.com/guides/energy-guides/average-electricity-prices-kwh.html> etc) an estimated difference between in-NZ manufacture of HSS and in-Malaysia manufacture of HSS. Converted to US\$ at the relevant exchange rate.
- i) SGA based on average Masteel and Southern Steel 2016 accounts as a % of COS.
- j) NZS submits that the justifiable allowance for profit is a 17% EBITDA margin. That is the level indicated by global management consulting firm McKinsey & Company to be required for

⁷¹ This is a cost from [redacted] [The redacted information in this paragraph is an entity name and is commercially sensitive.]

long-term steel mill sustainability.⁷² The calculations above however, use a materially lower level being the average profit of Masteel and Southern Steel in 2016.⁷³

China HSS Dumping Margins into New Zealand

124. The margin of dumping is the extent to which the export price of goods imported into New Zealand or which may be imported into New Zealand is less than the normal value of the goods as determined in accordance with the provisions of the Act. These calculations for the Chinese HSS are shown below.

Metric	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)	Q1-2017 (Q3 of F17)	Q2-2017 (Q4 of F17)
Constructed Normal Value	800	773	760	869	890	902	1,022	968
Export Price	649	662	599	612	680	674	701	702
Dumping (US\$/t)	151	111	161	258	210	228	320	266
Dumping % of Export Price	23.3%	16.8%	26.8%	42.1%	30.9%	33.8%	45.7%	37.9%

125. The F16/F17 Chinese average dumping margin on HSS goods to New Zealand is 32%.⁷⁴

Malaysia HSS Dumping Margins into New Zealand

126. The Malaysian dumping margin calculations are shown below. The F16 Malaysian average dumping margin on HSS goods to New Zealand is 36%.⁷⁵

Metric	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)
Constructed Normal Value	865	824	831	855	922	924
Export Price	738	707	566	590	646	614
Dumping (US\$/t)	126	116	265	265	276	310
Dumping % of Export Price	17.1%	16.4%	46.7%	45.0%	42.7%	50.4%

⁷² "Laying the foundations for a financially sound industry" Steel Committee meeting Paris, December 5th, 2013 at p 5 and p 7.

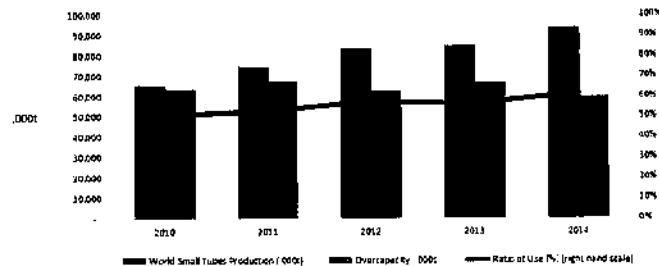
⁷³ Cell N139 in sheet "SGA" in file "Hollows Excel F16 and F17 3.10.17".

⁷⁴ Sheet "CN Dumping" in file "Hollows Excel F16 and F17 3.10.17".

⁷⁵ Sheet "ML Dumping" in file "Hollows Excel F16 and F17 3.10.17".

Further Comment: China HSS Exports Growth Path and World Overcapacity

127. NZS wishes to draw the Ministry’s attention to the general backdrop of world HSS production growth, overcapacity, and China’s place therein. Set out below is a graph of some primary data.⁷⁶ This shows that world small tubes capacity utilisation has recently been between 50% and 60%. That has been relatively stable with the function $y = 0.0241x + 0.4833$ $R^2 = 0.8848$.⁷⁷ These are low levels, which is consistent with a drive of the main sources to seek alternative home for marginally-costed and priced (i.e. dumped) exports. The information below suggests that the impetus for dumped HSS exports is deep-seated in world steel.



128. One then turns to China’s place in the above picture. China has grown significantly from holding a 3% share of world HSS exports by volume in 2001, to 19% in 2015. That growth is represented by function $y = 0.0077x + 0.0606$ ⁷⁸. It is salient to note that in that period China’s HSS export volume grew 18 times⁷⁹, whereas the next largest HSS exporter, Italy, grew just 5 times, and total world export growth of this steel product category was just 3 times.

129. Neither China nor Italy are domestic supply self-sufficient in the basic steel-making materials iron ore and coal. This suggests that government control in China (via the evidenced steel industry plans and steel industry subsidies - neither of which are present in the Italy) is a significant reason for China’s export HSS growth.

⁷⁶ Source: Austube Mills Pty Limited application to Australian Anti-Dumping Commission dated 5 October 2016. At <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-379.aspx> p. 24.

⁷⁷ Sheet “Overcapacity” in file “Hollows 2016 Excel F16 [REDACTED]”. [This information is a date and this information is commercially sensitive]

⁷⁸ Sheet “China Exports” in file “Hollows 2016 Excel F16 [REDACTED]”. [This information is a date and this information is commercially sensitive]

⁷⁹ This uses a product group in TradeMap of 730630, 730650, 730661 and 730669. World grew from 4.65 million tonnes in 2001 to 13.4 million tonnes in 2015. China was 0.14 million tonnes in 2001 but had grown to 2.5 million tonnes in 2015. Italy was 0.48 million tonnes in 2001 and grew to 2.2 million tonnes in 2015.

competitive advantage. The NZS price is confidential and the release of the FOB export price (in conjunction with the New Zealand destination cost which has been provided to NZS on a confidential basis) and the price undercutting margins would enable the NZS price to be back-calculated.]

134. NZS notes however, two particular matters in regard to the above Q1 and Q2 2017 cells: First, the Q1 and Q2 2017 NZS ex-works price is abnormally lower due to the November 2016 Kaikoura earthquake. That natural disaster affected freight costs to South Island destinations which rose over the 2016 level. [redacted] the NZS ex-works average price in those two quarters. This [redacted] Second, as discussed at paragraphs 80 and 81, the China Q1 and Q2 2017 cif prices are unusually high, and believed incorrect. Both these matters contribute to lower undercutting margins in 2017 than are believed normal or correct. *[The redacted information in this paragraph is logistics-related and is commercially sensitive because it would provide a competitor with a competitive advantage.]*

135. The Malaysia analysis is shown in the table below.

Malaysia HSS Undercutting	Q3-2015 (Q1 in F16)	Q4-2015 (Q2 of F16)	Q1-2016 (Q3 of F16)	Q2-2016 (Q4 of F16)	Q3-2016 (Q1 of F17)	Q4-2016 (Q2 of F17)
Import Price (cif average)	1,207	1,180	926	987	998	945
NZ-side destination costs (NZ\$/t) ⁸¹	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Chinese goods at ex-wharf (NZ\$/t)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
New Zealand Steel Price ex-works (NZ\$/t)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Undercutting amount (NZ\$/t)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Undercutting percent (of NZS price)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

136. The above table shows that the NZS selling price has been materially undercut at the primary distributor and processor level of trade in F16 and F17 to Q2 by an estimated average NZ\$ [redacted]/t by the Malaysian HSS goods in the New Zealand market. That level of undercutting margin from Malaysian goods is materially injurious and its existence is consistent with New Zealand industry/market information.

[The redacted information in this paragraph and in the table above is commercially sensitive because it would provide a competitor with a competitive advantage. The NZS price is confidential and the release of the FOB export price (in conjunction with the New Zealand destination cost which has been provided to NZS on a confidential basis) and the price undercutting margins would enable the NZS price to be back-calculated.]

Material Injury Analysis: Co-incidence or Counterfactual

137. This section discusses the method by which the injury to NZS can most appropriately be examined. NZS submits that under either the co-incidence or counterfactual approach, the likelihood of material injury is satisfied.

⁸¹ The source of this information is [redacted] *[The redacted information in this paragraph is an entity name and is commercially sensitive.]*

138. NZS will say and evidence in this section that co-incidence analysis has some specific, evidenced weaknesses. With the identified support which is provided below, NZS will also say that counterfactual, but for, analysis can be preferred as most suitable in the circumstances of the New Zealand HSS market, and that has been the approach previously used by the Ministry when examining critical matters which bear upon the condition of the industry.⁸²

139. Firstly, NZS observes the following difficulties with coincidence analysis:

- a) Coincidence analysis tends to be distant from the price-discussion point of injury. That distance from the point within steel industrial economics where deep undercutting takes effect is undesirable, and difficult to justify.
- b) Coincidence analysis has no exhibited strength in taking account of, that is, taking into consideration, behaviour in industrial markets, or industrial marketing.
- c) Coincidence analysis has limited rigour and is known to be generally inconclusive and poorly able to determine whether imported goods have caused material injury. The reference below is representative of that known lack of rigour in coincidence analysis:

“Other critics have noted a lack of analytical rigorousness in the bifurcated approach <the trend-form sometimes known as coincidence – bracket added>. It has been suggested that a stronger examination of causation may lead to discovery of other factors affecting an industry, and that the emphasis on comparing import volumes and domestic industry health is inconclusive.”⁸³

- d) Lastly, co-incidence analysis has a known technical weakness. While a causal link needs to be established, coincidence is a correlation test where a negative correlation is sought between undercutting price leadership by unfairly traded goods, and declining financial conditions of the industry. Negative (or any) correlation between those two matters does not, however, necessarily provide a cause-effect link. The Ministry may examine that matter in the reference provided below.⁸⁴
- e) The identified correlation – causation technical weakness view is supported by the following Panel commentary:

“The Panel acknowledges that an overall correlation between dumped imports and injury to the domestic industry may support a finding of causation. However, such a coincidence analysis is not dispositive of the causation question; causation and correlation are two distinct concepts. <emphasis added> In the circumstances of this case, even accepting China’s position that the domestic industry experienced injury as the dumped imports entered the market at large volumes and low (albeit increasing) prices, in the Panel’s view, the causation question is not resolved by such a general finding of coincidence.”⁸⁵

⁸² For example in Reinforcing Steel Bar and Coil from Malaysia and Thailand. May 2004 at [92]-[140].

⁸³ Narayanan, P. Injury Investigations in "Material Retardation" Antidumping Cases. Northwestern Journal of International Law & Business Volume 25 Issue 1 Fall 2004 p. 53.

⁸⁴ Trade Remedies in North America. Gregory Wells Bowman. Kluwer Law International, 2010 p. 491.

⁸⁵ WTO Panel in China – X-Ray Equipment (WT/DS425/R), para. 7.247

140. Secondly, NZS observes the very recent work of the Australian Government Anti-Dumping Commission which supports the price-based material injury event and economic consequence, and use of a counterfactual 'if not for the presence' approach. The latter is observed in the Australian Ministerial Direction on Material Injury (Australian Minister for Home Affairs, 27 April 2012), which states:

*"I note that anti-dumping or countervailing action is possible in cases where an industry has been expanding its market rapidly, and dumping or subsidisation has merely slowed the rate of the industry's growth, without causing it to contract. In cases where it is asserted that an Australian industry would have been more prosperous if not for the presence of dumped or subsidised imports, I direct that you be mindful that a decline in the industry's rate of growth may be just as relevant as the movement of an industry from growth to decline. I direct that it is possible to find material injury where an industry suffers a loss of market share in a growing market without a decline in profits. As in all cases, a loss of market share cannot alone be decisive. I direct that a loss of market share should be considered with a range of relevant injury indicators before material injury may be established." [at pp. 3-4]*⁸⁶

141. The Australian guidance for use of counterfactual is confirmed in the very recent China reinforcing bar dumping and subsidising case. The Australian Commission material is considered evidence relevant to this case as it addresses the same goods country of origin and it, too, considers a steel product sold through similar route to market. The Australian Commission's view and approach is encapsulated by the following excerpts from the Final Report. The Australian Commission said:

*"In testing these allegations and considering whether the injury observed is material and has been caused by exports of rebar from China, the Commission has adopted a 'but for' analytical approach. Under a 'but for' analytical method it may be possible to compare the current state of the industry, to the state the industry would likely have been in, had the exported goods not been subsidised."*⁸⁷

142. NZS concurs with the above Australian Commission's approach to assessing price effects and economic consequence under 'but for' analysis. NZS considers that the Australian Commission's approach is appropriate to apply to this case when assessing material injury to NZS.

143. NZS also turns to a particular attribute of counterfactual analysis. Its major strength is that takes full account of critical marketplace matters which bear upon the condition of the industry. It would ask:

Given how pricing takes place in this market, would the NZS economic performance have been different if the unfairly traded goods not been undercutting the NZS selling price, but instead been fairly priced?

144. NZS considers that this is the most significant question to be addressed in the HSS material injury analysis. Co-incident analysis does not engage with that question. Put another way, by asking this question, counterfactual analysis is well-suited to take into account behaviour in industrial markets, and industrial marketing, and the manner in which customer-driven price leverage is applied to HSS goods in this market

145. Counterfactual analysis has particular bearing and necessity in this case due to its price suppression being a key aspect to the injurious effects of the unfairly traded goods (priced in an IPP manner) against which New Zealand customers require NZS price its goods. The requirement in this circumstance for "but

⁸⁶ <http://www.adcommission.gov.au/adsystem/referencematerial/Documents/ACDN2012-24.pdf>

⁸⁷ FINAL REPORT NUMBER 322 ALLEGED SUBSIDISATION OF STEEL REINFORCING BAR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA. 19 SEPTEMBER 2016 p. 52.

for” is evident in Section 8(2)(c) of the Act and Article 3.2 of the WTO Antidumping Agreement. Both illuminate the need for counterfactual analysis of price suppression by their simple construction. The former uses the language “that otherwise would have been likely to have occurred”. The latter is “... or prevent price increases, which otherwise would have occurred”. The 1997 Minister of Commerce, Secretary of Commerce and Ministry of Commerce agreement principle regarding “but for” is also consistent with the WTO Antidumping Agreement and New Zealand Act.

146. Without being exhaustive, further acknowledgement of price suppression analysis needing to rest or be based on counterfactual, not deference to trend, follows:

147. First, WTO’s Czako et al write:

*“Price suppression is generally more difficult to discern from reported information, as it rests on a counterfactual conclusion (emphasis added) that, because of the dumped imports, prices of the domestic product have not increased as they would have in the absence of dumped imports.”*⁸⁸

148. Second, the ACBPS say:

*“In either case the price suppression analysis is based on a counterfactual conclusion (emphasis added), i.e. assessing what trend in, or level of prices the Australian industry is likely to have achieved in the absence of dumping.”*⁸⁹

149. The sum of all the above evidences that the Ministry HSS price suppression injury (including economic effect) analysis will need to be based on counterfactual.

Material Injury - Data

150. NZS submits in this application that it has been materially injured in F16 and F17 from price undercutting (which has caused price depression and suppression) from the presence in New Zealand of the unfairly traded goods from China and Malaysia. NZS also believes that it has been materially undercut by unfairly traded goods in earlier years. As there is no precise definition of material injury, there can be no precise date at which injury can be considered commenced. NZS nonetheless submits by way of general observation that the period F11-F12 may be reflective of a period pre-injury. This does not entail nor exclude the existence of dumping/subsidisation in F11-F12. NZS does not concede that there was no pre-F16 dumping/subsidisation and material injury therefrom.

151. In NZS’s view the New Zealand dumping-related comment by Austube Mills Pty Limited in its HSS application of November 2016 is unrelated-party comment supporting this contention. It is thus contextual evidence on the matter of when dumping/subsidisation and injury may have been taking place. Austube considers that dumped goods have been present in the New Zealand HSS market since at least 2012. Austube said:

“Prior to the imposition of measures <in Australia – bracket added> in 2012 the export price to New Zealand and Australia was comparable. Given Australia and New Zealand share a common structural standard for HSS (AS/NZS1163) and have similar size and coating preferences it is understandable that the export price should be comparable. Following the Australian imposition of measures in July 2012, the export price to Australia and New Zealand quickly diverged, with the absence of measures in New

⁸⁸ World Trade Organisation A Handbook on Anti-Dumping Investigations. Czako J, Human J and Miranda J. 2003 at [289].

⁸⁹ Ibid. at [17].

Zealand resulting in the continued reduction of prices at a dumped level into New Zealand. It stands to reason that if measures were allowed to expire the prices would again converge resulting in a return to dumped prices for HSS into Australia.”⁹⁰

152. Set out below is NZS HSS financial data and volume for years ending 30 June. This table is titled and referred to as the Injury Spreadsheet. F17 means the period ending 30 June 2017. This provides summary information on the difference between NZS HSS recent financial and performance in prior years.⁹¹ The information is prepared on a consistent basis period to period.

Injury Spreadsheet	F11	F12	F13	F14	F15	F16	F17
Sales volume (t)	■	■	■	■	■	■	■
Sales revenue (\$,000)	100	101%	97%	100%	86%	75%	105%
Cost of production (\$,000)	100	103%	101%	100%	100%	79%	105%
Gross profit (\$,000)	100	87%	66%	95%	-119%	128%	105%
5GA expenses (\$,000)	■	■	■	■	■	■	■
EBIT (\$,000)	■	■	■	■	■	■	■
Selling price (\$/t)	■	■	■	■	■	■	■
Cost of production (\$/t)	100	101%	99%	97%	111%	95%	100%
Gross profit (\$/t)	100	85%	65%	92%	-132%	153%	99%
5GA expenses (\$/t)	■	■	■	■	■	■	■
EBIT Margin (\$/t)	■	■	■	■	■	■	■
Variable costs (\$,000)	100	104%	93%	92%	94%	80%	104%
Variable Margin (\$/t)	100	98%	98%	102%	90%	86%	101%
Fixed costs (\$,000)	100	102%	106%	107%	105%	79%	102%
Fixed costs (\$/t)	100	99%	105%	104%	116%	95%	97%
Cashflow (\$,000)	■	■	■	■	■	■	■
Capacity - Black Pipe (t)	100	100%	100%	100%	100%	100%	100%
Utilization - Black Pipe (t)	100	101%	101%	103%	90%	85%	105%
Employment (# of HSS FTE's)	100	102%	93%	104%	102%	90%	100%
Fixed Assets (\$000)	100	93%	110%	95%	90%	91%	98%
EBIT % of Fixed Assets	100	89%	48%	85%	-388%	121%	103%

⁹⁰ Austube Mills Pty Limited November 2016 application to the Australian Government Anti-Dumping Commission p. 25.

⁹¹ Sheet "Hollows Injury Information Spreadsheet Ron Gillespie 3.55 p.m. 25.7.17".

[For certain rows figures for the first year in the table have been redacted because they are confidential and the subsequent years' figures in the table are year-to-year percentage changes from the previous year's figure. Where the figures along the entire row have been redacted it is because to index these figures would unnecessarily expose NZS to commercial risk.]

153. Several elements of the above table stand out and evidence material injury to NZS on the HSS goods:

154. The NZS unit profitability on HSS sales into its primary distributor/processor level of trade progressively declined to F16 and F17.

155. The three most recent periods (F15, F16 and F17) had the lowest per unit EBIT across the periods shown.

156. NZS absolute profit (EBIT) has been declining in a near-linear manner as the unfair (WTO-defined) price of the Chinese goods has taken effect at the NZS-customer interface.

157. The NZS quarterly unit selling price (y = [REDACTED]), EBIT (y = [REDACTED]) and gross profit (y = [REDACTED]) have all been on an ever-decreasing (and steeper) downward path than variable costs (y = [REDACTED]). *[The information in this paragraph is commercially sensitive because it would provide a competitor with a competitive advantage]*

158. The rate of decline in NZS unit selling price, EBIT and gross profit is consistent and of material scale.

159. In the three years F11 to F12, the average EBIT for the domestic HSS part of the NZS business was \$ [REDACTED] million. In the following years it declined markedly because of the presence in New Zealand of unfairly traded goods which have undercut the NZS HSS prices into the primary distributor/processor level of trade and effected price suppression and depression. EBIT was an average [REDACTED] million in F14-F17. The presence of the unfairly traded import goods, priced into the New Zealand market (i.e. undercutting the NZS prices as they are evidenced), has caused the NZS HSS EBIT to be lower than it otherwise would have been had the unfairly traded import goods not been present in the New Zealand market. *[The information in this paragraph is commercially sensitive because it would provide a competitor with a competitive advantage]*

160. The unit circumstance evidences the material injury that has been suffered. While plant volume has declined of late, the HSS selling price and variable margin ("spread"⁹²) and EBIT margin have suffered substantial negative effects.

161. In the three years F11 to F13 the average per unit EBIT for the domestic HSS part of the NZS was [REDACTED] per tonne. In the subsequent years F14 to F17 the group average declined to [REDACTED] per tonne. *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

162. In the three years F11 to F13, the average selling price was \$ [REDACTED] per tonne. In F16 and F17 it averaged \$ [REDACTED] per tonne. NZS has responded to the price undercutting by reducing its HSS price to customers at the primary distributor/processor level of trade. This evidence of price depression is in the

⁹² Spread is the \$ margin between selling price and variable costs. It can be a strong measure of economic performance because it is step-removed from plant volume or fixed cost effects.

seventh row of the table above. *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

163. In the three years F11 to F13, the average gross profit was \$ [REDACTED] per tonne. In subsequent years F14-F17 it had declined to [REDACTED] per tonne. *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

164. NZS submits that these facts record an injury which is fundamental in nature and of material scale, and one which is linked to the unfairly traded import goods as those goods grew share of New Zealand market with $y = [REDACTED]$, but the NZS gross profit per unit behaved inversely with $y = [REDACTED]$. *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

165. As further positive evidence of the assertion in the above paragraphs, NZS points to the significant and stable inverse relationship since F11 between the growth in volume of the unfairly traded imported goods, and the NZS EBIT. That relationship is represented by the negative correlation coefficient minus [REDACTED].⁹³ *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

Price Effects and Economic Impact

166. Section 8(2)(d) of the Act provides that the Chief Executive shall have regard to the economic impact of the dumped or subsidized goods on the industry, including –

- a) Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and
- b) Factors affecting domestic prices; and
- c) The magnitude of the margin of dumping; and
- d) Actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

167. NZS considers that the unfairly traded goods have caused it to suffer price undercutting and price depression / price suppression at the level of trade at which it sells – the distribution level. Other economic effects include loss of sales revenue and profits leading to significant adverse effects upon NZS's return on investments, cash flow, and (looking forward) growth and ability to raise capital and investments.

168. As the distribution-level industry can purchase either from NZS or from an import supply source, import offer levels and movement in the price of import offers are used by customers to negotiate prices with NZS. As a result, and in order to remain competitive, NZS is obliged to respond to the selling price of imported products to which customers draw NZS attention. That is evidenced in this application as being a selling-price sensitive juncture, and any unfairly traded import goods prices directly cause HSS to suffer price injury at the distribution level, resulting in reduced profits relative to a circumstance absent those unfairly

⁹³ Cell R58 in file "NZ HSS Production and Market Share [REDACTED]" *[This information is a date and this information is commercially sensitive]*

traded goods. As far as injury and economic impact is concerned, this is the critical matter which bears upon the condition of the industry, which leads to matters which are assessed in terms of section 8(2) of the Act.

169. At this juncture NZS notes that in a current rebar investigation the Ministry indicates that the “... <rebar – bracket added> *application can be evaluated for evidence of injury to the industry caused by unrealised sales revenue and profit, in terms of the factors relating to economic impact of the dumped or subsidised goods as set out in section 8(2)(d) of the Act.*” In this regard NZS observes that the factors do not comprise only those specifically identified at 8(2) due to 8(2)(d)(i) being preceded by “including”, which is consistent with Article 3.4 of the Anti-Dumping Agreement which goes further by recording “*This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance*”.

170. NZS further notes that Article 3.4 of the Anti-Dumping Agreement states that “*The examination of the impact of the dumped imports on the domestic industry shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry.*”

Sales

171. Movements in sales revenue can reflect changes in volume and the selling price of goods sold. Unfairly traded import goods imports can affect these factors through increased supply of goods to the distribution level of the market and through price competition. NZS submits that it has a strategy of retaining volume by competing on price (plus other assured quality and service elements). Injury effects are therefore reflected, induced, in sales revenue rather than sales volume.

172. Selling price per tonne has been declining near-linearly since F11. The function to F17 is $y =$ [REDACTED]. In no year has the NZS per unit HSS selling price been higher than the preceding year. The overall trend is downward. The F17 selling price is [REDACTED]% of the F11 selling price. NZS therefore submits that, albeit there has been some change in world steel pricing, this is evidence of price depression having economic impact in sales revenue. [*This information is commercially sensitive because it would provide a competitor with a competitive advantage*]

173. In particular, the evidence of significant price undercutting by imports into the primary distributor and processor level of trade from China in F16 and F17, alongside the decrease in sales revenue experienced by NZS as a result of lower selling price per tonne, indicates that the sales revenue decline is materially contributed to by the imports from China. This is consistent with the strategy adopted by NZS to counter the unfairly traded import goods, that is, to maintain market share and volume rather than price.

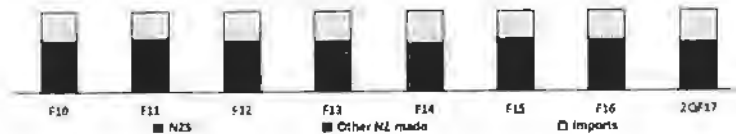
174. The economic impact at sales of the price suppression (where the NZS goods price has been affected by the unfairly trade goods) is described as follows: The NZS HSS selling price is shown undercut by the unfairly traded goods which are the significant presence in IPP discussions. The Ministry would, and has⁹⁴ logically looked in that circumstance to a NIP based counterfactually on the weighted average on the non-unfairly traded goods. Conclusion under that approach (with which NZS agrees) is identified by the Ministry.⁹⁵ In this near-mirror case, by mathematics, such unsuppressed selling price across the NZS HSS sales volume reflects the economic impact in sales revenue of the price suppression. It is therefore accommodated as an economic impact via factors affecting price via section 8(2)(d)(ii) of the Act.

⁹⁴ For example in Reinforcing Steel Bar and Coil from Malaysia and Thailand. May 2004 at [92]-[140].

⁹⁵ Ibid. at paragraph 619 at [114].

Market Share

175. The estimated market shares encompassing New Zealand manufacture of HSS goods and other supply over recent years are shown below.⁹⁶ These are calculated by adding the estimated New Zealand HSS imports to NZS's estimated domestic sales volume of HSS goods to obtain the total New Zealand market size, then reflecting shares therein. NZS notes that the material injury claims in this application relate to downward pressure on NZS selling prices from the growing share held by Chinese and Malaysian HSS goods, not market share-related matters.



Profits

176. NZS submits that it has suffered material injury against profit which can be traced to the presence in the New Zealand market from the unfairly traded import goods, in particular induced by price suppression. As per the sales revenue analysis above, by mathematics of an unrealised higher NZS selling price, ceteris paribus, this presents in the economic consequence as foregone EBIT.⁹⁷

177. Alternatively one may examine NZS material injury from the significantly lowered per unit profitability in F16 and F17 relative to earlier years. The quarterly EBIT function F11 to F17 is $y = \text{[redacted]}$. The quarterly gross profit function F11 to F17 is $y = \text{[redacted]}$. Those functions demonstrate injury. *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

178. The deep injury can also be illustrated by the squeeze in material margin. The F17 material margin is significantly less than in earlier years. Had the F11 per unit material prevailed in F17, the NZS profitability would show a positive effect of \$ [redacted] million.⁹⁸ Price suppression has induced that squeeze.

179. The deep injury can also be illustrated by quantum of profit foregone in F17 relative to the F11 and F12 years. The NZS HSS EBIT is adverse in F17 relative to those earlier years by \$ [redacted] million and \$ [redacted]

⁹⁶ Sheet "Compiled" in file "NZ HSS Production and Market Share [redacted] " *[This information is a date and this information is commercially sensitive]*

⁹⁷ Under the Ministry prior rebar steel industry approach referred to above, a counterfactual NIP is assessed against the weighted average import price of the non-unfairly traded goods. Given that the weighted average non-unfairly traded imports are at a higher level above the NZS price than the Chinese undercutting, then the EBIT profit economic effect estimate in (e.g. F17) is [redacted] tonnes times \$ [redacted] /t equals \$ [redacted] . *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

⁹⁸ \$ [redacted] = \$ [redacted] (being \$ [redacted] per tonne minus \$ [redacted] per tonne) times [redacted] tonnes. *[This information is commercially sensitive because it would provide a competitor with a competitive advantage]*

million respectively.⁹⁹ [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

180. The same is true for later years where the NZS HSS EBIT is adverse in F17 relative to F14 and F15 by \$ [redacted] million and \$ [redacted] million respectively.¹⁰⁰ [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

181. The significant material injury from the significantly lowered per unit profitability relative to earlier years can similarly be illustrated by examining gross profit foregone, effected by the undercutting-driven HSS price suppression. F16 and F17 were not profitable, but adverse on gross profit relative to F11 by \$ [redacted] million and \$ [redacted] million respectively.¹⁰¹ [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

182. The same adverse gross profit situation is true for later years where the F17 NZS HSS gross profit is adverse in F14 and F15 relative to F17 actual \$ gross profit, by \$ [redacted] million and \$ [redacted] million respectively.¹⁰² [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

183. The adverse situation in F16 and F17 of NZS H55 profitability can be summarised by grouping the EBIT and gross profit figures. F15, F16 and F17 measured against the earlier years drives an adverse EBIT effect of an average \$ [redacted] million.¹⁰³ The same measure on gross profit is an adverse effect of \$ [redacted]

⁹⁹ The calculation is [redacted] tonnes in F17 times the per unit differential of F11 and F12's EBIT per tonne, to F17's significantly lower, negative, per unit EBIT per tonne. Specifically, \$ [redacted] million = EBIT per tonne in F11 minus F17's EBIT per tonne times [redacted] tonnes. \$ [redacted] million = EBIT per tonne in F12 minus F17's EBIT per tonne times [redacted] tonnes. [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

¹⁰⁰ The calculation is [redacted] tonnes in F17 times the differential of F14 and F15 EBIT per tonne, to F17's EBIT per tonne. Specifically, \$ [redacted] million = EBIT per tonne in F14 minus F17's EBIT per tonne times [redacted] tonnes. And, \$ [redacted] million = EBIT per tonne in F15 minus F17's EBIT per tonne times [redacted] tonnes. [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

¹⁰¹ The calculation is [redacted] tonnes in F17 times the differential of F11 and F12's gross profit per tonne, to F17's gross profit per tonne. Specifically, \$ [redacted] million = gross profit per tonne in F11 minus F17's gross profit per tonne times [redacted] tonnes. \$ [redacted] million = gross profit per tonne in F12 minus F17's gross profit per tonne times [redacted] tonnes. [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

¹⁰² The calculation is [redacted] tonnes in F17 times the differential of F14 and F15 gross profit per tonne, to F16's gross profit per tonne. Specifically, \$ [redacted] million = gross profit per tonne in F14 minus F17's gross profit per tonne times [redacted] tonnes. And, \$ [redacted] million = gross profit per tonne in F15 minus F17's gross profit per tonne times [redacted] tonnes. [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

¹⁰³ EBIT calculation is an average of [redacted] and [redacted] minus average of [redacted] [redacted] [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

million.¹⁰⁴ [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

Productivity

184. NZS does not point to material injury related to productivity, nor consider it particularly relevant in this case. Such injury will be less than the effects of the unfairly traded Chinese goods on the NZS HSS selling price and profit.

Return on Investments

185. NZS submits that it has suffered an economic impact from the Chinese HSS in New Zealand as diminished return on investments, proportional to that evidenced by the EBIT as a % of Assets data in the Injury Spreadsheet table above. That data function is $y = \text{[REDACTED]}$ [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

186. An alternative assessment of the Return on Investment economic effect can incorporate the undercutting suppressive effect \$ [REDACTED] described above in relation to EBIT. This estimates a [REDACTED] point adverse effect on ROI from the unfairly traded goods.¹⁰⁵ [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

Utilisation of Production Capacity

187. NZS does not point to material injury related to production capacity, nor consider that factor particularly relevant in the circumstances of this case. Utilisation of production capacity injury will be less than the injurious effects of the unfairly traded Chinese goods on the NZS selling price and profitability measures.

Factors Affecting Domestic Prices – Other Imports

188. NZS considers that the primary factor affecting New Zealand domestic HSS selling prices is the price of the unfairly traded imported goods from China and Malaysia. Those goods undercut the NZS prices causing price depression and price suppression.

189. China and Malaysia have collectively circa 75% share, the next largest share being Australia. The average Australia-sourced cif price is significantly higher than the unfairly traded import goods from China and Malaysia. Some other countries (Korea, Thailand and UAE) have 1% to 3% import share (depending on time period chosen, occasionally slightly higher than the latter) and have also been low priced. New Zealand market commentary/leverage upon NZS however, has been identified to China and Malaysia.

Magnitude of the Margin of Unfair Trade

190. The margin of dumping is estimated to be 32% to 36%.

¹⁰⁴ Gross Profit calculation is an average of [REDACTED] and [REDACTED] minus average of [REDACTED] and [REDACTED] [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

¹⁰⁵ F17 negative [REDACTED] % ROI = $-\$ [REDACTED]$ divided by $\$ [REDACTED]$ fixed assets. Same calculation net of the $\$ [REDACTED]$ foregone EBIT drives [REDACTED] % ROI, which is a [REDACTED] point improvement. [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

Cashflow

191. NZS submits that it has suffered a material-level economic impact from the unfairly traded import HSS in New Zealand as diminished cashflow, evidenced by the cashflow data in the Injury Spreadsheet above. The function of the cashflow series to end F17 is $y = \text{[REDACTED]}$. [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

192. NZS suggests that the above information significantly exceeds what is sufficient for the Ministry to make a finding that NZS has suffered an injurious effect upon HSS cashflow. As support for this view, NZS points to the following Ministry finding of likely adverse effects on cashflow in a previous investigation, where a likely cashflow finding was made on no direct cashflow evidence:

*"608. Croxley did not provide information on cash flow because of the difficulty in allocating cash flow to its domestic production and sale of like goods. There is therefore no direct evidence of an adverse impact on cash flow attributable to dumped imports. It is likely, however, that the decline in Croxley's profits will have flowed through into a decline in Croxley's cash flow from operations."*¹⁰⁶

193. NZS nonetheless submits that it has suffered material cashflow economic consequence which can be traced to the presence in the New Zealand market of the unfairly traded import goods, in particular induced by price suppression. As per the sales revenue analysis above, by mathematics of an unrealised higher NZS selling price, ceteris paribus, this presents in the economic consequence as foregone cashflow.¹⁰⁷

Inventories

194. NZS does not point to an adverse economic impact related to inventory.

Employment and Wages

195. NZS does not point to material-scale adverse economic impact related to employment and wages.

Growth, Ability to Raise Capital and Investments

196. NZS observes that the presence in New Zealand of unfairly traded import HSS has adversely affected growth prospects for the NZS HSS business, and any requests NZS might make to its owner for capital. As illustrated above in the EBIT, gross profit and cashflow tables, NZS has suffered considerable economic damage relative to a circumstance in which the unfairly traded import goods may have been remedied per the intent of the WTO Agreement and New Zealand Dumping and Countervailing Duties Act 1988. The significant degree of economic damage from the unfairly traded import goods is inevitably considered by the NZS parent when growth and further investments in New Zealand are being evaluated.

197. Consideration is given to whether the manufacturing economics of HSS can be satisfactorily positive if the import pool remains comprised of unfairly traded import goods, that is, comprised of unfairly traded

¹⁰⁶ <http://www.mbie.govt.nz/info-services/business/trade-tariffs/trade-remedies/dumping-of-imported-goods/document-image-library-completed-investigations/Final%20report%20Diaries%20from%20China-%20Hong%20Kong-%20Indonesia-%20Korea%20and%20Malaysia%20-1.298%20kB%20PDF.pdf>

¹⁰⁷ Under the Ministry prior rebar steel industry approach referred to above, a counterfactual NIP is assessed against the weighted average import price of the non-unfairly traded goods. Given that the weighted average non-unfairly traded imports are at a higher level above the NZS price than the Chinese undercutting, then the cashflow economic effect in (for example F17) is [REDACTED] tonnes times \$[REDACTED]/t equals \$[REDACTED]m. [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

goods under the WTO construct of what “unfair” means. NZS observes that its potential source of growth funding has a choice to direct capital to geographies where unfairly traded import HSS is trade-remedied.

Other Factors

198. NZS is not aware of the following factors materially injuring the industry: The volume and prices of goods that are not sold at dumped prices; Contraction in demand or changes in patterns of consumption; Restrictive trade practices of, and competition between overseas and New Zealand producers; Developments in technology, and NZS export performance and productivity. NZS does not consider those factors relevant to this case.

199. NZS is not aware of importations of unfairly traded Chinese or Malaysian goods by New Zealand producers of like goods.

Other Economic Effects

200. The primary economic impact from the unfairly traded import goods has been on the NZS HSS selling price and consequential profit. NZS does not point to economic effects other than those described above.

Causal Link

201. The price-depressive and suppressive effects occur in the market comment and intelligence feedback regarding whether the NZS-made HSS goods are competitive against the unfairly traded import goods. The causal linkage resides in the IPP pricing mechanism, where New Zealand customers require that NZS respond to their supply-side/ price option of buying imported goods whose price is underpinned by unfair (by “unfair”, we refer to imports that are unfair and are injurious according to WTO rules) economics. The pricing dynamic is described in the New Zealand Steel Pricing Structure Section above, and is shown at paragraph 189 where the unfairly traded goods are of large volume share and near lowest price.

202. The effect of the unfairly traded import goods on the prices of like goods in the New Zealand market, and the impact thereof, can be evidenced by the NZS hollows price responsiveness to the import price indications given to it in the NZS price discussions with customers. This is the essence of causal link (which the Ministry may observe in the NZS referenced evidence at paragraph 139, coincidence analysis is incapable of convincingly analysing).

203. NZS submits that it does respond to the import goods price. Economic effect is thus induced. One can illustrate this, on the facts, with analysis of the various import goods price datapoints presented to NZS and the subsequent NZS price response. Specifically:

- i. The relationship between import pricing¹⁰⁸ and NZS prices through time has [REDACTED] Pearson R Correlation. The spread between those series has a σ of \$ [REDACTED] (off μ \$ [REDACTED]).
- ii. That is significantly different if one lags the NZS prices later than the price indications by two months, i.e. looks for response. If one is looking to see evidence of price response, one would expect to see R increase and the σ decrease relative to non-lagged.
- iii. The expected price response occurs, evidenced by lagged data R = [REDACTED], which is a significant increase from un-lagged [REDACTED], and the lagged data σ of the spread

¹⁰⁸ Universe July 2014 to April 2017 = 21.

declining to \$ [redacted] (off μ \$ [redacted]) from the un-lagged σ \$ [redacted] [This information is commercially sensitive because it would provide a competitor with a competitive advantage]

204. The causal linkage relative to the unfairly traded goods being in the New Zealand customer-driven pricing practice is made plain by asking the counterfactual question. That is:

“Given how pricing takes place in this market, at the nexus of price in pricing meetings, would NZS’s economic performance have been different if the unfairly traded Chinese import goods not been present in New Zealand in material volume, and undercutting the NZS selling price in recent years?”

205. This question can alternatively be asked in reverse. That is:

“Given how pricing takes place in this market, at the nexus of price in pricing meetings, would NZS’s economic performance have been no different if the unfairly traded Chinese import goods not been present in New Zealand in material volume, and undercutting the NZS selling price in recent years?”

206. One can describe the causal link in a further manner: The sales revenue and pricing data clearly shows significant decline. Some is due to world price change. NZS is nonetheless, on the facts, forced to respond to the significant China and Malaysia undercutting. That modality, the Chinese and Malaysian goods causing adverse NZS economic performance, is at the nexus of the NZS price discussions with local New Zealand customers.

Provisional Measures

207. NZS seeks provisional anti-dumping measures. NZS considers that the Ministry will find positive evidence in this application for the existence of conditions meeting the requirements of section 16(1)(a) and section 16(1)(b). Without limitation, NZS points to marketplace events originating from the unfairly traded import goods which are currently causing NZS to lower its prices and suffer consequential injury.

Anti-Dumping Duty Suspension

208. NZS considers that the goods covered by this application are not goods of a kind typically used in residential construction and are thus not intended included in the 2019 two year extension of the three year anti-dumping duty collection suspension.

Verification Visit

209. Whilst there is no explicit statutory obligation on Ministry officials to conduct a verification visit, there are powerful due process reasons that demonstrate why such visits must take place given the stakeholders diverging interests in the process and the general information asymmetry. NZS considers that some in-company exporter information cannot be satisfactorily found or verified without a verification visit by Ministry officials. Set out below is example evidence supporting that view. Some of this evidence identifies what was found different in the verification visit and the effect upon the investigation of having elicited the correct information in the visit:

- a) The Australian Anti-Dumping Commission uncovered some correct, highly relevant information, only by having travelled to China and conducted in-China verification. An example relates to Chinese company Tianjin Youfa which indicated in questionnaire reply to the Australian Customs and Border Protection Service a level of HRC supply from SIE’s driving a 2.8% subsidy finding. Information obtained at verification which was then followed up, led to a significantly higher HRC supply from SIE’s, and an increase in the related subsidy level from the original 2.8%, to 12.0%. The additional HRC source-related evidence elicited

was material to the extent that it gave rise to a 9.2% uplift in the subsidy rate established in the investigation.¹⁰⁹ NZS offers that example to show that relevant information for an HSS investigation can be elicited, and necessary corrections made to regulator analysis, if the regulator conducts a verification visit.

- b) The EU found when investigating OCS in China that the written Chinese entity submissions sent to Brussels contained incorrect information, for example in relation to electricity. This was only revealed, that is, necessary corrections made, by the EU having conducted in-China verification. The EU's in-China discoveries were not found by the preceding EU in-Europe side desk review. The additional electricity-related evidence elicited was material to the extent that it appears to have given rise to a 0.17% subsidy rate.¹¹⁰ This is a further example to show that relevant information can be elicited if the decision-maker conducts a verification visit.
- c) The EU very recently found significant discrepancies during an in-China steel industry verification visit. In report of 8 June 2017 (case AS634) the EU said:

*"The findings of the verification were very different to the number and total value of grants reported in the questionnaire responses of the GOC."*¹¹¹

- d) The EU also found significant grants accounting treatment-related discrepancies during its case AS634 in-China steel industry verification visit. In report of 8 June 2017 the EU said:

*"Therefore, the Commission concluded that the company had neither provided the detailed information about the grants received in the IP and which were reported in the reply to the questionnaire, nor the details of the grants that were received prior to the IP, and which were **found only during the verification visit** <emphasis added> to be relevant for the IP."*¹¹²

- e) In-China verification affords a unique opportunity for a regulator to interview Chinese parties with relevant information aside from those on the specific visit list. By way of example, the EU spent 80 person-days in China verifying hot rolled steel information in the afore-mentioned case AS634. It visited MOFCOM China where it noted that "other relevant ministries" also attended and "participated" in the EU-MOFCOM meeting.¹¹³ This is a further example to show that relevant information can be elicited if the decision-maker were to make such in-country inquiry. The participation by other relevant GOC ministries provides an opportunity for a decision-maker to ask questions and obtain knowledge of matters pertinent to its inquiry.

¹⁰⁹ Australian report 379 at 8.5.2, [45].

¹¹⁰ *EC Organic Coated Steel Report* (11 March 2013) at [35-36].

¹¹¹ *EC Hot Rolled Steel Report* (8 June 2017) at [388].

¹¹² *EC Hot Rolled Steel Report* (8 June 2017) at [80].

¹¹³ *EC Hot Rolled Steel Report* (8 June 2017) at [21].

CONCLUSION

Case Basis

210. This case is based on the following:

- a) The China and Malaysia share of the New Zealand HSS imports is circa 74%.¹¹⁴
- b) China and Malaysia's HSS pricing into New Zealand is low, and those low HSS prices are presented in the New Zealand market at levels which undercut the New Zealand industry and adversely affect the economic position of the New Zealand industry.
- c) China and Malaysia's HSS pricing into New Zealand is underpinned by unfair trading practice within the meaning of the WTO Agreements.

Confirmation of Application

I hereby apply to the Ministry on behalf of NZS for the initiation of an investigation into the dumping of HSS from China and Malaysia.

This application and its attachments provide positive evidence of:

- Dumping of Chinese and Malaysian HSS goods in New Zealand; and
- Material injury to the New Zealand industry; and
- The causal link between dumped Chinese and Malaysian HSS goods and the material injury occurring at NZS.

NZS makes this application to the Ministry as the New Zealand industry manufacturing like goods to those subject to the application.

New Zealand Steel Limited

¹¹⁴ Although Malaysia is thought to be on its own, circa 11%. See footnote 46.

3 November 2017 AD NC 24.11.17

A handwritten signature in black ink, appearing to be 'C. Blenkiron', written in a cursive style.

Chris Blenkiron

Manager Marketing, Sales & Business Development

APPENDICES / SCHEDULES

Appendix One: Excerpt Australian Report¹¹⁵ re Section 5(2)(b) of the Act

3.4 Steel industry: Chinese government interventions

The Chinese Government has played a central role in the development of the Chinese steel industry over an extended time period.

A 2014 CBSA report noted that the Chinese Government classified the 'Iron and Steel Industry' as a 'fundamental or pillar' industry.¹¹⁶ As such, the Chinese Government has been heavily involved in directing and controlling the structure, composition, growth and financial viability of the steel industry through numerous plans and directives,¹¹⁷ subsidy programs, taxation arrangements and the significant number of state owned steel companies, and the National Development Reform Commission's (NDRC) responsibility for approving all large steel projects.¹¹⁸ More information on these interventions is set out below. Concerns regarding the role of the Chinese Government involvement within the Chinese steel sector have been expressed by five American trade associations.¹¹⁹ Analysis by these associations identified numerous programs through which the Chinese Government is alleged to have provided support to the sector and directly contributed to high levels of overcapacity and producer fragmentation. Support mechanisms included: cash grants; equity infusions; government-mandated mergers and acquisitions; preferential loans and directed credit; land use subsidies; subsidies for utilities; raw material price controls; tax policies; currency policies; and lax enforcement of environmental regulation.

3.41. Chinese Government subsidies and tax concessions

¹¹⁵ <http://www.adcommission.gov.au/adssystem/referencematerial/Documents/MASTER%20-%20Steel%20aluminium%20report%20-%2031%20August%202016%20-%20for%20public%20release.pdf> p. 44-49.

¹¹⁶ CBSA, 2014, p 14.

¹¹⁷ 2011-2015 Development Plan for the Steel Industry (2011), Guiding Opinions on Pushing Forward Enterprise Mergers and Acquisitions and Reorganisation in Key Industries (2013), Directory Catalogue on Readjustment of Industrial Structure (Version 11) (2013 Amendment), Steel Industry Adjustment Policy (2015 Revision). Some of these plans and directives cover other key industries as well as the steel industry. 2011-2015 Development Plan for the Steel Industry (2011), Guiding Opinions on Pushing Forward Enterprise Mergers and Acquisitions and Reorganisation in Key Industries (2013), Directory Catalogue on Readjustment of Industrial Structure (Version 11) (2013 Amendment), Steel Industry Adjustment Policy (2015 Revision). Some of these plans and directives cover other key industries as well as the steel industry.

¹¹⁸ CBSA, 2014, p. 17.

¹¹⁹ Steel Industry Coalition, Steel Industry Coalition Report on Market Research into the People's Republic of China Steel Industry, Part 1, Final Report, 2016. Associations contributing to the report included the: American Iron and Steel Institute; Steel Manufacturers Association; Committee on Pipe and Tube Imports; Speciality Steel Industry of North America; and the American Institute of Steel Construction.

The Commission has found evidence of a range of different subsidies and tax concessions provided by the Chinese Government to the Chinese steel industry, including:¹²⁰

- subsidization of raw inputs (such as coal and electricity)
- land use tax deductions
- tariff and value-added tax (VAT) exemptions on imported materials and equipment
- preferential tax policies for enterprises with foreign investment
- preferential tax policies for specific regions
- preferential tax policies for high and new technology enterprises
- special support funds for non-state-owned enterprises.

These subsidies and tax concessions reduce the operating costs of Chinese steel enterprises, confer a competitive advantage through the ability to offer steel products at lower prices, and increase the profitability of steel production.

By altering the VAT rebates or export taxes applied to steel exports, the Chinese Government has altered the relative profitability of different types of steel exports and of exports compared to domestic sales. This has changed steel producers' relative incentives to sell steel products in domestic compared to export markets. Through these mechanisms for altering the relative supply of particular steel products in the domestic market, the Chinese Government has been able to influence the domestic price for those products.

For example, in January 2015, the Chinese Government reduced the VAT rebate on steel products containing boron, which accounts for around 40 per cent of exports.¹²¹ While these VAT rebates have been reduced, they remain in place for other additives such as chromium.¹²² Such rebates increase the profitability of alloyed steel products compared to non-alloyed products.

The Chinese Government also influences the domestic price for steel products through the application of export taxes on Chinese billets, which accounts for a significant proportion of the cost of steel fabricated products. For example, 80 to 85 per cent of the total production cost of steel such as rod in coils is accounted for by the cost of billets.¹²³

Previous investigations by the Commission found evidence of export taxes and export quotas on a number of key inputs in the steel making process including coking coal, coke, iron ore and scrap steel.¹²⁴ The

¹²⁰ Anti-Dumping Commission, 2013, Report Number 198: Dumping of Hot Rolled Plate Steel Exported from the People's Republic of China, Republic of Indonesia, Japan, The Republic of Korea and Taiwan and Subsidisation of Hot Rolled Plate Steel Exported from The People's Republic of China, pp. 41-43; Australian Customs Service, 2013, Report Number 193: Alleged Subsidisation of Zinc Coated Steel and Aluminium Zinc Coated Steel, pp. 40-41

¹²¹ Department of Industry and Science, Resources and Energy Quarterly, March 2015, p. 24.

¹²² Metals Insight, 14 May 2015, p. 4.

¹²³ Anti-Dumping Commission calculations.

¹²⁴ Anti-Dumping Commission, 2013, Report Number 198: Dumping of Hot Rolled Plate Steel Exported from the People's Republic of China, Republic of Indonesia, Japan, The Republic of Korea and Taiwan and Subsidisation of Hot Rolled Plate Steel Exported from The People's Republic of China, pp. 41-43.

Commission found that these measures would keep input prices artificially low and create significant incentives for exporters to redirect these products into the domestic market, increasing domestic supply and reducing domestic prices to a level below what would have prevailed under normal competitive market conditions.

The extent to which lower raw material prices would have a depressing effect on domestic Chinese steel prices will depend on the degree to which lower input costs are passed through into prices and the degree to which steel producers are able to retain the lower raw material costs in the form of increased profit. Where lower input costs are able to be retained as increased profit, this would increase steel producers' incentives to expand production.

The Chinese Government was reported to be planning to reduce the export tax on steel with effect from 1 January 2016, from 25 per cent to 20 per cent for steel billet and 10 per cent for pig iron.¹²⁵ This was expected to improve returns to Chinese steel producers, reducing the pressure on the industry to cut capacity and making exporting relatively more attractive. As at August 2016, the Commission has not been able to confirm whether export taxes applied to Chinese steel billet and pig iron were reduced.

3.4.2 Chinese Government involvement in strategic enterprises

The Chinese Government maintains significant interests in a number of major Chinese steel producers. As a 'fundamental or pillar' industry, the Chinese Government retains a minimum of 50 per cent equity in the principal enterprises. State-owned steel producers constituted a majority of the top ten steel producers in China and accounted for a significant share of total steel production and capacity.¹²⁶ Through its involvement in these companies, the Chinese Government is able to exert significant influence over the Chinese steel industry. The importance of these state-owned steel producers is reflected in the Chinese Government's Guiding Opinions on Pushing Forward Enterprise Mergers and Acquisitions and Reorganisation in Key Industries (2013) document, which calls for the top ten steel producers to further consolidate control over Chinese steel production and hence increase their influence over domestic steel markets.

While there is limited transparency about the operations of Chinese state-owned corporations, the Commission understands that these companies can receive loans at less than commercial rates, that dividend policies can be set to pursue government objectives and that extended periods of lossmaking may be tolerated—all of which reduce the normal commercial pressures for companies to operate efficiently and for poorly performing firms to cut back or cease operations.

The OECD has found that China's steel industry has one of the lowest operating margins compared not only to the steel industries of many other economies but also relative to other domestic industries. China's steel industry is ranked 85th out of 94 Chinese service and manufacturing sectors, but is last amongst all domestic manufacturing industries.¹²⁷ As noted in chapter 2 of this report, average margins for Chinese steel producers were negative in 2015. The Commission notes that low and negative margins have been recorded despite the subsidies and tax concessions outlined in section 3.4.1 above.

¹²⁵ <http://finance.yahoo.com/news/chinas-export-tax-cuts-could-worsen-global-steel-082427033-business.html>

¹²⁶ CBSA, 2014, p. 14. World Steel Association figures. In 2010, eight of the largest ten Chinese steel producers were state owned; these companies included Hebei Steel Group; Baosteel Group; Ansteel Group; Wuhan Steel Group; Shougang Group; Maanshan Steel; Tianjin Bohai Steel; and Benxi Steel Group. In 2013 the top steel companies accounted for 45 per cent of total Chinese crude steel production.

¹²⁷ OECD, Steel Market Developments, Q4 2015, 2016, p. 17.

The weakening of normal commercial pressures on state-owned corporations may also lead to investments that would be unlikely to meet commercial rate of return criteria. These corporations' investment decisions may instead be directed towards implementing the objectives of the Chinese Government's planning directives. Examples include the involvement of Chinese state-owned steel companies in projects which have either been recently commissioned or are under development, despite the magnitude of global and Chinese overcapacity. These projects include: Anshan Iron & Steel's Bayuquan Steelworks (6.5 million tonnes per annum (mtpa), Liaoning Province, commissioned 2008); the Shougang Jingtang United Iron & Steel's Steelworks (Hebei Province, commissioned 2010); and the Fangchenggang Steel Company Limited (Wuhan Iron & Steel Group) Steelworks (9.2 mtpa, Guangxi Province, commissioned September 2014).¹²⁸ Significant Chinese steelworks with a focus on flat products currently being developed or planned include: Baosteel's Zhanjiang steelworks (Guangdong Province, expected commissioning in 2016); the Baotou Iron & Steel steelworks (5 mtpa, Inner Mongolia); and the Chongqing Iron & Steel (Chongang) and POSCO signed Investment MOU (USD 3.3 billion, signed July 2014).¹²⁹

3.4.3 Chinese Government plans and directives for the steel industry

The nature and extent of the Chinese Government's influence within the Chinese steel industry is demonstrated by the major themes and objectives of its series of plans and directives for the industry (summarised in the text box below).

Early plans and directives focussed on developing the Chinese steel manufacturing industry, supporting economic stability and employment (particularly during the 2009 GFC).

However, the emphasis of more recent Chinese Government plans and directives is on promoting the orderly restructuring and reorganisation of the Chinese steel industry to address the issue of persistent overproduction and excess capacity.

China's 13th Five Year Plan, covering the period 2016-2020, was endorsed at the National People's Congress held in March 2016. Detailed plans for each region and major industry were expected to be released later in the year; as at August 2016, they were yet to be released.

Media summaries of the 13th Five Year Plan¹³⁰ report that it maintains the Government's focus on reform, including reducing excess capacity and improving environmental performance. The Plan also targets the maintenance of relatively solid economic growth of 6.5 to 7 per cent per annum. Actions to address overcapacity in Chinese industry include reforms to state-owned enterprises and greater market discipline. Similar objectives for the Chinese steel industry were identified by the Chinese Ministry of Industry and Information Technology in the draft Steel Industry Adjustment Policy (2015 Revision).

If implemented according to the indicated timeframes, the Chinese Government's policies would reduce overcapacity in the steel industry over time. However, the Commission considers that the Chinese Government's desire for a 'soft landing' for the economy, its economic growth and employment objectives,

¹²⁸ OECD, *Excess Capacity in the Global Steel Industry and the Implications of New Investment Projects*, OECD Science, Technology and Industry Policy Papers, No. 18, OECD Publishing, 2015, p. 15.

¹²⁹ *ibid.*

¹³⁰ A final translated version of the 13th Five Year Plan was not publicly available at the time of writing this report.

and evidence of continued state-sponsored investment in steel production facilities suggest that the significant structural adjustment in the Chinese steel industry is unlikely to occur in the near-term.

The difficulties facing the Chinese Government in restructuring the industry were demonstrated in the first four months of 2016, when an estimated 50 million tonnes of previously closed Chinese capacity was restarted. A Chinese news portal, MySteel, reported that the restarting of this capacity, as a result of improved profitability and access to credit, accounted for almost all of the 60 million tonnes of capacity taken off line in 2015.¹³¹

Themes and objectives of Chinese government plans and directives for the steel industry

National Steel Industry Development Policy (2005): Structural adjustment of the Chinese steel industry; industry consolidations through mergers and acquisitions; regulation of technological upgrading to new standards; Government supervision and management.

Blueprint for the Adjustment and Revitalisation of the Steel Industry (2009): Domestic market stability; control of total steel production output and elimination of backward capacity; enterprise reorganisation and greater industry concentration; technical transformation and technical progress; guidelines for steel industry layout and development, steel product mix and product quality; iron ore import stability and 'rectifying' the market order; development of domestic and overseas resources.

2011-2015 Development Plan for the Steel Industry (2011): Increased mergers and acquisitions to create larger, more efficient steel companies; minimum capacity requirements to reduce the number of small steel producers; restrictions on steel capacity expansions; upgrades of steel industry technology; greater emphasis on high-end steel products; relocation of iron and steel companies to coastal areas.

Guiding Opinions on Pushing Forward Enterprise Mergers and Acquisitions and Reorganisation in Key Industries (2013): Top ten companies to account for 60 per cent of production; three to five major steel corporations with core competency and international impact; six to seven steel corporations with regional influence; steel corporations to participate in foreign steel companies' mergers and acquisitions.

Steel Industry Adjustment Policy (2015 Revision): Upgrades to product mix; rationalisation of steel production capacity; lift in capacity utilisation rates to 80 per cent by 2017; guidance for market exit; industry consolidation; orientation and oversight of mergers and reorganisations; improved organisational structures; Government supervision and administration; energy conservation, emission reductions, and environmental protection. Sources: CBSA, 2014, pp. 17-18;

[http://www.eurofer.eu/Issues%26Positions/Trade/ws.res/Steel Industry Adjustment Policy Comments Appendix.fhtml/Steel Industry Adjustment Policy Appendix.pdf](http://www.eurofer.eu/Issues%26Positions/Trade/ws.res/Steel%20Industry%20Adjustment%20Policy%20Comments%20Appendix.fhtml/Steel%20Industry%20Adjustment%20Policy%20Appendix.pdf); Dept. of Industry and Science, 2015, China Resources Quarterly, Southern Autumn – Northern Spring, p. 15.

The Commission also notes that provincial and local governments implement a number of plans and measures to control the development of the iron and steel industry. The plans and directives issued at the central government level have often, in the past, been integrated and reinforced at the provincial level.¹³²

¹³¹ Australian Financial Review, 'China reopens steel mills as profits surge', 28/04/2016, p. 11.

¹³² Anti-Dumping Commission, Statement of Essential Facts No. 301: Alleged Dumping of Certain Steel Rod in Coils Exported from The People's Republic of China, 15 February 2016, pp. 54-55. For example, the Chinese

The Commission understands that provincial and local governments have recently prioritised policies to maintain or grow production and employment, sometimes in a manner contrary to central government policies to improve efficiency or increase the scale of production.

For example, there have been increasing reports in recent times of so-called 'zombie' companies in steel (and aluminium) manufacturing. These companies are financially unviable, or unable to repay debts, but are being supported and prevented from bankruptcy by local governments, in the hope that a recovery in steel (and aluminium) prices would allow them to return to profitable operation.¹³³ The Commission considers that such actions are likely to further delay the necessary structural adjustment within the Chinese steel industry.

Such actions have been identified as explaining, in part, the limited success of China's 2013 plan to reduce steel capacity, supporting doubts about China's ability to reduce steel-making capacity and steel production:

The limited attempts that were made to reduce capacity in accordance with the 2013 plan were largely ineffectual. For example, in late 2013, China's Hebei province staged an event during which demolition squads blew up blast furnaces owned by 15 mills, all on Chinese state television. According to the Wall Street Journal, however, "[a]ll of the furnaces targeted for destruction turned out to be so outmoded that the companies that owned them didn't consider them spare capacity, steel-industry officials [said], meaning they didn't help reduce the province's extra volume." In part due to the lack of progress closing capacity in Hebei, "there is no reason to assume that [the government's 80-million ton closure] target will be met," let alone the larger level of capacity closure envisioned by China's newly announced plan.¹³⁴

Government's 'Blueprint for the Adjustment and Revitalisation of the Steel Industry' (2009) and the 'Shandong Province Iron and Steel Industry Revitalisation Plan' (2009) identified a number of corresponding policy measures.

¹³³ <http://www.theaustralian.com.au/business/economics/debtladen-zombie-companies-imperil-chinasgrowth/news-story/4083e25e12ae4cff07cb447551079eac>; <http://www.ejinsight.com/20160312-how-chinacould-put-zombie-companies-to-rest/>

¹³⁴ A Price, C Weld, L El-Sabaawi and A Teslik, *Unsustainable: Government intervention and overcapacity in the global steel industry*, op. cit., pp. 7-8.

Appendix Two: Excerpt from Canada Border Services Agency Statement of Reasons 4214-42 AD/1403 & 4218-39 CV/138, December 23, 2014 ¹³⁵

[93] Therefore the margin of dumping for Habas Petrol was determined pursuant to section 29 of SIMA based on the All Other Exporters' margin of dumping methodology described below

China

Section 20 Inquiry

[94] Section 20 of SIMA may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA,⁷ it is applied where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Where section 20 is applicable, the normal values of goods are not determined using domestic prices or costs in that country.

[95] For purposes of a dumping proceeding, the CBSA proceeds on the presumption that section 20 of SIMA is not applicable to the sector under investigation absent sufficient information to the contrary. The President may only form an opinion where there is sufficient information that the conditions set forth in paragraph 20(1)(a) of SIMA exist in the sector under investigation.

[96] The CBSA is also required to examine the price effect resulting from substantial government determination of domestic prices and whether there is sufficient information on the record for the President to have reason to believe that the resulting domestic prices are not substantially the same as they would be in a competitive market.

[97] For the purpose of this investigation, the Complainants requested that section 20 be applied in the determination of normal values due to the alleged existence of the conditions set forth in paragraph 20(1)(a) of SIMA. The Complainants provided information to support these allegations concerning the long products steel sector in China, which includes concrete reinforcing bar.

[98] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the Complainants, from its own research and from past investigations, to support the initiation of a section 20 inquiry to examine the extent of GOC involvement in pricing in the long products steel sector, which includes concrete reinforcing bar. The information indicated that prices in China in this sector have been influenced by various GOC industrial policies. Consequently, the CBSA sent section 20 RFIs to the GOC and all known long products steel producers in China to obtain information on the matter.

⁷ China is a prescribed country under section 171 of the Special Import Measures Regulations.

¹³⁵ See <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1403/ad1403-i14-fd-eng.pdf>

Results of the Section 20 Inquiry

[99] The CBSA sent questionnaires to 83 exporters and producers in the long products steel sector in China. One producer⁸ provided a response and their total production figures account for a fraction of the total production of concrete reinforcing bar in China.⁹ The GOC did not provide a response to the section 20 RFI. In the absence of complete information the CBSA's sources of information are constrained. Accordingly, the CBSA has relied on its own research and information that was on the administrative record notwithstanding its efforts to obtain more comprehensive data.

[100] The following is the CBSA's analysis of the relevant factors that are present in the Chinese steel industry and which affect the long products steel sector which includes concrete reinforcing bar.

[101] The GOC classifies the iron and steel industry to be a "fundamental or pillar" industry and therefore the government maintains a degree of control over the industry through a minimum of 50% equity in the principal enterprises.¹⁰

[102] Information on the record indicates that in 2010 eight of the top ten steel companies in China were state-owned.¹¹ In 2013 it is estimated that the top ten steel companies accounted for 45% of the total Chinese crude steel production.¹² The complainants also provided supporting documentation that demonstrates that state owned enterprises produce steel billet and/or rebar themselves or through their subsidiaries. This indicates that the GOC exerts control over the Chinese steel industry which encompasses the long products steel sector including concrete reinforcing bar.

⁸ Dumping Exhibits 56 (PRO) and 57 (NC) - Response to Section 20 RFI - Shandong Shuibeng Special Steel Group Co. Ltd.

⁹ Dumping Exhibits Exhibit 78 (PRO) - Document 41 Exhibit 54 (PRO) - A14 (b)

¹⁰ Dumping Exhibit 147 (PRO) - 2007-07 Money for Metal - Chinese Steel Industry

¹¹ Dumping Exhibit 2 (NC) - Complaint, Attachment 24 p. 9

¹² Dumping Exhibit 36 (PRO) - Document 5 - 2013 Top Steelmakers in the World (Top 50), Exhibit 78 (PRO) - Document 50 - 2014-02 MITT - 2013 Report on the economic operation of the steel industry

[103] As cited in previous section 20 inquiries relating to the steel industry¹³ the National Steel Industry Development Policy (2005 National Steel Policy)¹⁴ dated July 8, 2005, outlines the GOC future plans for the domestic steel industry in China. The major objectives of the 2005 National Steel Policy are

- the structural adjustment of the domestic steel industry in China
- industry consolidations through merger and acquisitions
- the regulations of technological upgrading with new standards for the steel industry
- measures to reduce material and energy consumption and enhance environmental protection, and
- government supervision and management in the steel industry

[104] On March 20, 2009 the GOC promulgated the Blueprint for the Adjustment and Revitalization of the Steel Industry (2009 Steel Revitalization/Rescue Plan)¹⁵, issued by the General Office of the State Council. This macro-economic policy was the GOC's response to the international financial crisis and is also the action plan for the steel industry for the period between 2009 and 2011. This plan includes the following major tasks:

- maintain the stability of the domestic market and improve the export environment
- strictly control the total output of steel and accelerate the process of eliminating what is backward (obsolete)
- enhance enterprise reorganization and improve the industrial concentration level
- spend more on technical transformation and promote technical progress
- optimize the layout of the steel industry and overall arrangements of its development
- adjust the steel product mix and improve the product quality
- maintain stable import of iron ore resources and rectify the market order, and
- develop domestic and overseas resources and guarantee the safety of the industry

[105] There are common measures between the two GOC policies but, in addition, the 2009 Steel Revitalization/Rescue Plan is an acceleration of some major objectives of the 2005 National Steel Policy in that there continues to be the strict control of new additions to steel production capacity, more stipulated mergers and acquisitions to consolidate the steel industry in China into larger conglomerates and also a focus on product quality.

¹³ Certain Seamless Steel Casing (2008), Certain Oil Country Tubular Goods (2010), Certain Carbon Steel Welded Pipe (2008 & 2011), Certain Pop Joints (2011), Certain Piling Pipe (2012) and Certain Galvanized Steel Wire (2013)

¹⁴ Dumping Exhibit 36 (PRO) – Document No. 25 - 2005-07 NDRC [2005] 35 - Steel Industry Development Policy

¹⁵ Dumping Exhibit 36 (PRO) – Document No. 33 - 2009-03 SC [2009] 6 - 2009 Steel Industry Restructuring and Revitalization Plan

[106] There are also provincial versions to the 2009 Steel Revitalization/Rescue Plan. An example of the provincial version of the national plan is the Shandong Province Iron and Steel Industry Restructuring and Revitalization Plan¹⁶. This 2009 provincial plan mirrors the policy objectives of the national 2009 Steel Revitalization/Rescue Plan, but is tailored to reflect the conditions for the iron and steel industry in Shandong Province.

[107] Further support that the domestic prices are substantially determined by the GOC and are not substantially the same as they would be in a competitive market in the steel industry in China can be found in the GOC's new macro-economic policy entitled, 12th Five-Year Plan: Iron and Steel (2011-2015 Development Plan for the Steel Industry)¹⁷.

[108] The 2011-2015 Development Plan for the Steel Industry is the most recent five year plan for the steel industry that was released by the GOC's Ministry of Industry and Information Technology on November 7, 2011. It serves as the guiding document for the development of the Chinese steel industry for the 2011-2015 period and its directives include:

- increased mergers and acquisitions to create larger, more efficient steel companies
- GOC restrictions on steel capacity expansion,
- upgrading of steel industry technology
- greater GOC emphasis on high-end steel products, and
- GOC directed relocation of iron and steel companies to coastal areas.

[109] Also included in this plan are minimum requirements for steel production in order to eliminate smaller players in the market. Through this plan, the GOC is continuing its reform and restructuring of the Chinese steel industry. The GOC's target is that by 2015, China's top 10 steel producers will represent 60% of the country's total steel output. According to the 2005 National Steel Plan, the long-range GOC target for mergers and acquisitions is to have the top 10 Chinese steel producers account for 70% of total national steel production by 2020. This plan is the next development stage of GOC directives aimed at achieving this long-range 2020 target.

[110] The 2011-2015 Development Plan for the Steel Industry also addresses ongoing issues in the steel industry with the directive to strictly control expansion of steel production capacity, accelerate the development of higher value steel products and to continue to advance mergers and restructuring.

¹⁶ Dumping Exhibit 36 (PRO) – Document 58 - 2009-04 Shandong [2009] No. 45 - Shandong Provincial Steel Industry Restructuring and Revitalization Plan.

¹⁷ Dumping Exhibit 36 (PRO) – Document 100 - 2011-11 MBIT [2011] 480 - Steel Industry 12th Five Year Development Plan.

[111] Therefore the main task of the 2011-2015 Development Plan for the Steel Industry is to control total volume by eliminating obsolete production and controlling new production capacity. The scope of the GOC's reforms in the steel sector in China is to be obtained by industry concentration targets through mergers and acquisitions by the end of 2015. These GOC objectives are likely to conflict with the commercial interests of producers in the long products steel sector, which includes concrete reinforcing bar. These objectives will likely affect production volumes, competition and ultimately prices.

[112] In October 2011 a pilot project was launched by the National Development and Reform Commission (NDRC) to restructure the steel industry in Shandong Province.¹⁸ The main objectives of the restructuring plan is to phase out backward production thereby improving energy conservation, control new production capacity in order to stop blind investment, improve industrial concentration through mergers and plant relocations and increase the production of higher value added steel products. The objective is to establish one large provincial steel company (Shandong Iron and Steel Group) and five regional steel companies (Zibo, Weifang, Larwu, Lanyi, Binzhou).¹⁹ This would be achieved through the merger of state owned and privately owned steel mills through equity swaps or partnership agreements.²⁰ The GOC objective of merging and consolidating the steel industry is likely to conflict with the commercial interests of producers in the long products steel sector, which includes concrete reinforcing bar.

[113] The GOC has also provided value added tax (VAT) export rebates on various steel products to promote their export. In addition, the GOC has also imposed export taxes on various steel products to curtail their export.

[114] In general terms, China's VAT system is similar to a consumption tax, with the end consumer ultimately paying the tax. A manufacturer in China pays 17% VAT on its purchases of raw materials, processes the goods, and then sells the end-products, collecting 17% VAT in the process. The manufacturer then remits the difference between the VAT collected and the VAT paid on the purchases of the raw materials. In this manner, a manufacturer does not incur any VAT related costs on his production materials. However, VAT on export sales is treated differently.

[115] With exports, the exporter still pays the same 17% VAT on their purchases of raw materials, however, when they export the goods, they only receive a VAT refund of a fixed percentage, which is established by the GOC. In addition, the VAT refund cannot exceed the VAT paid on raw materials. Consequently, the VAT refund on exports would offset the VAT paid on the raw materials.²¹

¹⁸ Dumping Exhibit 80 (NC) – Document 23 – Shandong [2012] No. 8 - Implementation of the Restructuring of the Steel Industry in Shandong Province

¹⁹ Dumping Exhibit 80 (NC) – Document 35 - Shandong Province Steel Industry Restructuring to Start

²⁰ Dumping Exhibit 80 - (NC) – Document 34 – Shandong Iron and Steel Industry Restructuring News

²¹ Dumping – Exhibit 78 (PRO) – Document 9 - OECD Steel Trade Policy Measures

[116] Since 2007, China has eliminated VAT export rebates on some but not all steel products resulting in a shift in production towards products that still qualified for this rebate.²² This has the effect of promoting certain types of production while at the same time reducing the level of exports of other steel products ultimately affecting pricing of these goods.

[117] An important effect of these tax changes is that it increases the cost of exports and reduces their profitability, which in turn reduces the volume of material that is exported and leaves additional capacity to serve the domestic market. While the GOC has stated that many of these policies are intended to address environmental and resource efficiency issues, these measures are changing the demand and supply balance in the domestic market and affecting the domestic prices of affected products.²³

[118] The GOC does not provide any VAT export rebate for steel billets²⁴ or non-alloy rebar, while alloy rebar currently receives a VAT export rebate. Steel billet and non-alloy rebar are both subject to an export tax. The absence of a VAT export rebate, coupled with an export tax, on steel billets further demonstrates the GOC's objective of increasing the domestic supply of unfinished steel products by discouraging their export. A higher supply of steel products such as billets in the domestic market causes a downward pressure on domestic prices of these goods. Further since billet comprises a large percentage of the cost of rebar²⁵ the low cost of billet in China impacts the price of rebar in China.

Analysis of Domestic Prices in China

[119] The CBSA requested domestic market pricing of concrete reinforcing bar from the GOC and producers in China. The GOC did not provide a response to the RFL but the CBSA did receive information on the domestic market pricing of concrete reinforcing bar from one producer in China.

[120] The complaint provided information from the Steel Business Briefing (SBB) a global independent source of steel pricing information comparing worldwide concrete reinforcing bar prices for the POI. This information indicated that domestic prices of concrete reinforcing bar in China were consistently lower when compared to pricing in other markets.²⁶

[121] The CBSA was also able to obtain domestic pricing information from MySteel Weekly²⁷ for the concrete reinforcing bar market in China for the POI. The prices reported in MySteel Weekly were in line with what the SBB reported.²⁸

²² Dumping - Exhibit 78 (PRO) - Document 7 - China's Value-added Tax System

²³ Dumping Exhibit 2(NC) - Complaint, para. 126

²⁴ Steel billet is used in the manufacture of long products such as plain bars, rebar, rods, tubes, pipes and wire.

²⁵ Dumping Exhibit 2(NC) - Complaint, para. 132

²⁶ Dumping Exhibit 1(PRO) Complaint, Attachment 29

²⁷ MySteel Weekly is an independent observer of the Chinese steel market.

²⁸ Dumping Exhibit 67 (PRO) - MySteel Weekly Issue # 301, 305, 307, 311, 314, 319, 323, 328, 332, 336, 340, 344, 349, 353 and 357.

Appendix Three: China WTO Accession Protocol of 10 December 2001, Clause 15

15. Price Comparability in Determining Subsidies and Dumping

Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

- (a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:
 - (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;
 - (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.
- (b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.
- (c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.
- (d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.

End.

Appendix Four: Letters of Application Support



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W | www.steeltube.co.nz

The Manager
Trade and Regulatory Cooperation
Ministry of Business, Innovation and Employment
PO Bo 1473
Wellington 6140

To whom it may concern,

Industrial Tube Manufacturing Co. Ltd. support the application by NZ Steel concerning the dumping of hollow steel sections from China and Malaysia, and subsidisation of hollow steel sections from China in New Zealand.

Yours sincerely



DA Pennell
Chief Executive Officer
Industrial Tube Manufacturing Co. Ltd.



October 18th 2017

The Manager
Trade and Regulatory Cooperation
Ministry of Business, Innovation and Employment
PO Box 173
Wellington 6140

To whom it may concern,

NZ Tube Mills Ltd support the application by NZ Steel concerning the dumping of hollow steel sections from China & Malaysia, and the subsidisation of Chinese hollow steel sections, into New Zealand.

In addition to ourselves being a manufacturer of hollow sections, which would also likely be under threat from cheaper subsidised imports, we purchase our feed coil from NZ Steel.

So, anything that may impact on the viability of NZ Steel will ultimately flow down to NZ Tube Mills, likely to drive up our costs and make us uncompetitive too.

Should you wish to discuss this matter further, then I can be contacted on 029 579 5429 or tc@nztm.co

Yours Faithfully

A handwritten signature in black ink, appearing to read "Terry Carter", is written over a faint, illegible background.

Terry Carter
General Manager

